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

RESERVATIONS: (202) 741–6008

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FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1355]

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; technical amendment.

SUMMARY: The Board of Governors (Board) is amending the routing number guide to next-day availability checks and local checks in Regulation CC to delete the reference to the Seattle branch office of the Federal Reserve Bank of San Francisco and to reassign the Federal Reserve routing symbols currently listed under that office to the Los Angeles branch office of the Federal Reserve Bank of San Francisco. The Board is also amending the routing number guide to delete the reference to the Denver branch office of the Federal Reserve Bank of Kansas City and to reassign the routing symbols currently listed under that office to the Los Angeles branch office of the Federal Reserve Bank of San Francisco and to the head office of the Federal Reserve Bank of Dallas. These amendments reflect the restructuring of check-processing operations within the Federal Reserve System.

DATES: The effective date for amendatory instruction 2, amending 12 CFR Part 229 Appendix A is June 20, 2009, and the effective date for amendatory instruction 3, further amending 12 CFR Part 229 Appendix A is June 27, 2009.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. H. Yeganeh, Financial Services Manager (202/728–5801), or Joseph P. Baressi, Financial Services Project Leader (202/452–3959), Division of Reserve Bank Operations and Payment Systems; or Dena L. Milligan, Attorney (202/452–3900), Legal Division. For users of Telecommunications Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION: Regulation CC establishes the maximum period a depositary bank may wait between receiving a deposit and making the deposited funds available for withdrawal.[1] A depositary bank generally must provide faster availability for funds deposited by a ''local check'' than by a ''nonlocal check.'' A check is considered local if it is payable by or at or through a bank located in the same Federal Reserve check-processing region as the depositary bank.

Appendix A to Regulation CC contains a routing number guide that assists banks in identifying local and nonlocal banks and thereby determining the maximum permissible hold periods for most deposited checks. The appendix includes a list of each Federal Reserve check-processing office and the first four digits of the routing number, known as the Federal Reserve routing symbol, of each bank that is served by that office for check-processing purposes. Banks whose Federal Reserve routing symbols are grouped under the same office are in the same check-processing region and thus are local to one another.

On June 20, 2009, the Reserve Banks will transfer the check-processing operations of the Seattle branch office of the Federal Reserve Bank of San Francisco to the Los Angeles branch office of the Federal Reserve Bank of San Francisco. On June 27, 2009, the Reserve Banks will transfer the check-processing operations of the Denver branch office of the Federal Reserve Bank of Kansas City to the Los Angeles branch office of the Federal Reserve Bank of San Francisco and to the head office of the Federal Reserve Bank of Dallas. As a result of these changes, some checks that are drawn on and deposited at banks located in the affected check-processing regions and that currently are nonlocal checks will become local checks subject to faster availability schedules. To assist banks in identifying local and nonlocal checks and making funds availability decisions, the Board is amending the list of routing symbols in appendix A associated with the Federal Reserve Bank of San Francisco to reflect the transfer of check-processing operations from the Seattle branch office to the Los Angeles branch office. The Board is also amending the lists of routing symbols in appendix A associated with the Federal Reserve Banks of Kansas City, Dallas, and San Francisco to reflect the transfer of check-processing operations from the Denver branch office to the Los Angeles branch office and the Dallas head office. Specifically, the Denver branch office routing symbols formerly associated with the Salt Lake City branch office (1240, 1241, 1242, 1243, 3240, 3241, 3242, 3243) will be listed under the Los Angeles branch office, and the remainder of the Denver branch office routing symbols, including the routing symbols formerly associated with the Helena branch office (0920, 0921, 0929, 2920, 2921, 2929, 1020, 1021, 1022, 1023, 1070, 3020, 3021, 3022, 3023, 3070), will be listed under the Dallas head office. To coincide with the effective date of the underlying check-processing changes, the amendments to appendix A regarding the transfer of check-processing operations from Seattle to Los Angeles are effective June 20, 2009. The amendments to the appendix regarding the transfer of check-processing operations from Denver to Los Angeles and Dallas are effective June 27, 2009. The Board is providing notice of the amendments at this time to give affected banks ample time to make any needed processing changes. Early notice also will enable affected banks to amend their availability schedules and related disclosures if necessary and provide their customers with notice of these changes.[2]

Administrative Procedure Act

The Board has not followed the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of the final rule. The revisions to appendix A are technical in nature and are required by the statutory and regulatory definitions of ''check-processing region.'' Because there is no substantive

[1] For purposes of Regulation CC, the term ''bank'' refers to any depository institution, including commercial banks, savings institutions, and credit unions.

[2] Section 229.18(e) of Regulation CC requires that banks notify account holders who are consumers within 30 days after implementing a change that improves the availability of funds.

change on which to seek public input, the Board has determined that the § 553(b) notice and comment procedures are unnecessary. In addition, the underlying consolidation of Federal Reserve Bank check-processing offices involves a matter relating to agency management, which is exempt from notice and comment procedures.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed the final rule under authority delegated to the Board by the Office of Management and Budget. The technical amendments to appendix A of Regulation CC will (i) delete the reference to the Seattle branch office of the Federal Reserve Bank of San Francisco and reassign the routing symbols listed under that office to the Los Angeles branch office of the Federal Reserve Bank of San Francisco, and (ii) delete the reference to the Denver branch office of the Federal Reserve Bank of Kansas City and reassign the routing symbols listed under that office to the Los Angeles branch office of the Federal Reserve Bank of San Francisco and to the head office of the Federal Reserve Bank of Dallas. The depository institutions that are located in the affected check-processing regions and that include the routing numbers in their disclosure statements would be required to notify customers of the resulting change in availability under § 229.18(e). However, all paperwork collection procedures associated with Regulation CC already are in place, and the Board accordingly anticipates that no additional burden will be imposed as a result of this rulemaking.

List of Subjects in 12 CFR Part 229

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

■ For the reasons set forth in the preamble, the Board is amending 12 CFR part 229 to read as follows:

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

■ 1. The authority citation for part 229 continues to read as follows:

Authority: 12 U.S.C. 4001–4010, 12 U.S.C. 5001–5018.

■ 2. Effective June 20, 2009, the Twelfth District routing symbol list in appendix A is revised to read as follows:

Appendix A to Part 229—Routing Number Guide to Next-Day Availability Checks and Local Checks

* * * * *

Twelfth Federal Reserve District

[Federal Reserve Bank of San Francisco]

Los Angeles Branch

1210	3210
1211	3211
1212	3212
1213	3213
1220	3220
1221	3221
1222	3222
1223	3223
1224	3224
1230	3230
1231	3231
1232	3232
1233	3233
1250	3250
1251	3251
1252	3252

* * * * *

■ 3. Effective June 27, 2009, the Tenth, Eleventh, and Twelfth District routing symbol lists in appendix A are amended by removing the headings and listings for the Tenth Federal Reserve District and revising the listings for the Eleventh and Twelfth Federal Reserve Districts to read as follows:

* * * * *

Eleventh Federal Reserve District

[Federal Reserve Bank of Dallas]

Head Office

0920	2920
0921	2921
0929	2929
1010	3010
1011	3011
1012	3012
1019	3019
1020	3020
1021	3021
1022	3022
1023	3023
1030	3030
1031	3031
1039	3039
1070	3070
1110	3110
1111	3111
1113	3113
1119	3119
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1122	3122
1123	3123
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1149	3149
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Twelfth Federal Reserve District

[Federal Reserve Bank of San Francisco]

Los Angeles Branch

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1213	3213
1220	3220
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1222	3222
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1251	3251
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* * * * *

By order of the Board of Governors of the Federal Reserve System, May 1, 2009.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E9–10507 Filed 5–6–09; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1214; Directorate Identifier 2007–NM–259–AD; Amendment 39–15897; AD 2009–10–02]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 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 all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. That AD currently requires operators to determine the number of flight cycles accumulated on each component of the main landing gear (MLG) and the nose landing gear (NLG), and to replace each component that reaches its life limit with a serviceable component. The existing AD also requires operators to revise the Airworthiness Limitations (AWL) section of the Instructions for Continued Airworthiness (ICA) in the aircraft maintenance manual to reflect the new life limits for structurally significant items. This new AD requires a new revision of the AWL section of the ICA to incorporate revised life limits for structurally significant items,

operational and functional tests of certain systems, and instructions to retain critical ignition source prevention features during configuration changes. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. We are issuing this AD to prevent failure of certain structurally significant items, including the MLG and the NLG, which could result in reduced structural integrity of the airplane; and to prevent fuel vapor ignition sources, which could result in fuel tank explosion and consequent loss of the airplane.

DATES: This AD becomes effective June 11, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 11, 2009.

The Director of the Federal Register approved the incorporation by reference of certain other publications as of October 26, 2005 (70 FR 55230, September 21, 2005).

ADDRESSES: For service information identified in this 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.*

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

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2005–19–15, amendment 39–14280 (70 FR 55230, September 21, 2005). The existing AD applies to all BAE Systems (Operations) Limited (Jetstream) Model 4101 airplanes. That NPRM was published in the **Federal Register** on November 17, 2008 (73 FR 67817). That NPRM proposed to continue to require operators to determine the number of flight cycles accumulated on each component of the main landing gear and the nose landing gear, and to replace each component that reaches its life limit with a serviceable component. That NPRM also proposed to continue to require operators to revise the Airworthiness Limitations (AWL) section of the Instructions for Continued Airworthiness (ICA) in the aircraft maintenance manual to reflect the new life limits for structurally significant items. That NPRM also proposed to require a new revision of the AWL section of the ICA to incorporate revised life limits for structurally significant items, operational and functional tests of certain systems, and instructions to retain critical ignition source prevention features during configuration changes.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been received on the NPRM or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hour	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
AWL revision (required by AD 2005–19–15)	1	$80	$80	3	$240
AWL revision (new action)	1	80	80	3	240

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a 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 39–14280 (70 FR 55230, September 21, 2005) and by adding the following new airworthiness directive (AD):

2009–10–02 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–15897. Docket No. FAA–2008–1214; Directorate Identifier 2007–NM–259–AD.

Effective Date

(a) This AD becomes effective June 11, 2009.

Affected ADs

(b) This AD supersedes AD 2005–19–15.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model Jetstream 4101 airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. We are issuing this AD to prevent failure of certain structurally significant items, including the main landing gear and the nose landing gear, which could result in reduced structural integrity of the airplane; and to prevent fuel vapor ignition sources, which could result in fuel tank explosion and consequent loss of the airplane.

Compliance

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

Certain Requirement of AD 2005–19–15: Revise Aircraft Maintenance Manual (AMM)

(f) Within 30 days after October 26, 2005 (the effective date of AD 2005–19–15): Revise the Airworthiness Limitations (AWL) section of the Instructions for Continued Airworthiness of the BAE Systems (Operations) Limited J41 AMM to include the life limits of the components listed in Chapter 05–10–10, Airworthiness Limitations—Description and Operation Section, Revision 23, dated February 15, 2005, of the AMM. This may be accomplished by inserting a copy into the AWL section of the Instructions for Continued Airworthiness. Thereafter, except as provided in paragraph (i) of this AD, no alternative replacement times may be approved for any affected component.

New Requirements of This AD: Revise AWL Section of Instructions for Continued Airworthiness

(g) Within 90 days after the effective date of this AD: Revise the AWL section of the Instructions for Continued Airworthiness by incorporating the instructions of Subjects 05–10–10, ''Airworthiness Limitations,'' 05–10–20, ''Certification Maintenance Requirements,'' and 05–10–30, ''Critical Design Configuration Control Limitations (CDCCL)—Fuel System'' of the BAE Systems (Operations) Limited Jetstream Series 4100 AMM, Revision 31, dated February 15, 2009. Thereafter, except as provided in paragraph (i) of this AD, no alternative replacement times or inspection intervals may be approved for any affected component. The revised Chapter 05–10–10 replaces the corresponding chapter specified in paragraph (f) of this AD.

(h) Where paragraph 2.A.(2) of Subject 05–10–10 of the BAE Systems (Operations) Limited Jetstream Series 4100 AMM, Revision 31, dated February 15, 2009, specifies that certain landing gear units ''must be removed before 31st March 2008,'' this AD requires compliance within 60 days after the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(i) 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 appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Related Information

(j) European Aviation Safety Agency airworthiness directive 2008–0094, dated May 16, 2008, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use the service information contained in Table 1 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

TABLE 1—ALL MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
BAE Systems (Operations) Limited J41 (AMM)	23	February 15, 2005.
Subject 05–10–10 of the BAE Systems (Operations) Limited Jetstream Series 4100 AMM	31	February 15, 2009.
Subject 05–10–20 of the BAE Systems (Operations) Limited Jetstream Series 4100 AMM	31	February 15, 2009.
Subject 05–10–30 of the BAE Systems (Operations) Limited Jetstream Series 4100 AMM	31	February 15, 2009.

Chapter 05 of the BAE Systems (Operations) Limited Jetstream Series 4100 AMM contains the following effective pages:

TABLE 2—EFFECTIVE PAGES OF CHAPTER 05

[List of effective pages]

Page title/description	Page number(s)	Revision number	Date shown on page(s)
AMM Title Page	None shown	Not shown on page*	February 15, 2009
AMM Publications Transmittal			
	1	31	February 15, 2009.
	2–3	Not shown on page*	February 15, 2009.

TABLE 2—EFFECTIVE PAGES OF CHAPTER 05—Continued

[List of effective pages]

Page title/description	Page number(s)	Revision number	Date shown on page(s)
Chapter 05 Airworthiness Limitations List of Effective Pages	1–2	Not shown on page*	February 15, 2009.
Subject 05–10–10: Airworthiness Limitations			
	1–4	Not shown on page*	September 15, 2004.
	5	Not shown on page*	February 15, 2006.
	6–10	Not shown on page*	February 15, 2005.
	12, 16, 18–40, 45	Not shown on page*	February 15, 2009.
	11, 13–15, 17, 41-44, 46, 47	Not shown on page*	February 15, 2007.
Subject 05–10–20: Certification Maintenance Requirements			
	1, 5	Not shown on page*	December 1, 1997.
	2–3	Not shown on page*	September 15, 2004.
	4	Not shown on page*	October 15, 1999.
Subject 05–10–30: Critical Design Configuration Control Limitations (CDCCL)—Fuel System			
	1–2	Not shown on page*	February 15, 2008.

*Page 1 of the Publications Transmittal of the BAE Systems (Operations) Limited Jetstream Series 4100 AMM is the only page that shows the revision level of this document.

(1) The Director of the Federal Register approved the incorporation by reference of Subject 05–10–10, Subject 05–10–20, and Subject 05–10–30 of the BAE Systems (Operations) Limited Jetstream Series 4100 AMM, Revision 31, dated February 15, 2009, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of the BAE Systems (Operations) Limited J41 AMM, Revision 23, dated February 15, 2005, on October 26, 2005 (70 FR 55230, September 21, 2005).

(3) For service information identified in this 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.*

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

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

Issued in Renton, Washington, on April 27, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–10425 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1239; Directorate Identifier 2008–NM–131–AD; Amendment 39–15894; AD 2009–09–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 747 airplanes. This AD requires repetitive external surface high frequency eddy current inspections to detect cracks in the radius detail of the upper lobe doubler on both sides of the airplane, and applicable corrective action. This AD results from reports of cracks in the radius detail of the upper lobe doublers. We are issuing this AD to detect and correct cracks in the upper lobe doublers. Such cracks could result in significant degradation of the fuselage structure and reduce its ability to carry flight loads from the vertical stabilizer, which could adversely affect the controllability of the airplane.

DATES: This AD is effective June 11, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 11, 2009.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The 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: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 747 airplanes.

That NPRM was published in the **Federal Register** on November 26, 2008 (73 FR 71963). That NPRM proposed to require repetitive external surface high frequency eddy current (HFEC) inspections to detect cracks in the radius detail of the upper lobe doubler on both sides of the airplane, and applicable corrective action.

Comments

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

Support for Proposed AD

Boeing concurs with the contents of the proposed AD. Northwest Airlines (NWA) has no technical objection to the initial and repetitive HFEC inspections and corrective actions specified in the proposed AD.

Request To Include Service Bulletin Information Notice

NWA requests that the information in Boeing Service Bulletin Information Notice (IN) 747–53A2651 IN 01, dated November 6, 2008, be acknowledged and accounted for in the final rule.

We partially agree. Changes to Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, are discussed below, along with our response to the commenter about these changes.

- The IN notes that in Figures 1 and 2, footnote (b), of Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, the existing probe part number ''MMP950–50'' should be ''MMP905–50.'' The existing part number of the probe (for the HFEC inspection) in the service bulletin has a typographical error. The part number is provided in Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, only as an example of an acceptable probe, and is not mandated by this AD. Therefore, we have not changed this AD regarding this issue.
- The IN also notes that in Figures 1 and 2, footnote (b), of Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, additional examples of the small diameter probe part numbers ''MMP901–50'' and ''MMP–60'' should be added, and that Boeing wants to provide the operators with more examples of acceptable probes. As use of a specific small diameter probe is not mandated, this AD has not been changed regarding this issue.
- The IN also notes that in Paragraph 3.B., Work Instructions, PART 3, Step 1, of Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, the existing text ''from STA 2520 to STA 2521'' should be ''from STA 2491 to STA 2521.'' The existing text is a typographical error in ''Part 3—Restoration'' of the Work Instructions of Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, and it is related to the location of a sealant application. The service bulletin does define the inspection area as ''between STA 2491 and STA 2521'' in the Action paragraph and the service bulletin shows the same area to be inspected in the figures. It is Boeing's intent in the service bulletin to apply sealant to the inspected area. We have clarified this issue by adding a new paragraph (g) to this final rule and re-identified subsequent paragraphs accordingly.

Request To Change Work Hours

NWA requests that we change the work-hour estimate provided in the proposed AD to include the time to remove and restore the sealant—for a total of 25 work hours.

We disagree. The cost information describes only the direct costs of the specific actions required by this AD. Based on the best data available, the manufacturer provided the number of work hours necessary to do the required actions. This number represents the time necessary to perform only the actions actually required by this AD. Removing the sealant is addressed in paragraph 3.B. ''Part 1—Access,'' of Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, and restoration of the sealant is addressed in paragraph 3.B. ''Part 3—Restoration,'' in the Work Instructions of the service bulletin. We recognize that, in doing the actions required by an AD, operators might incur incidental costs in addition to the direct costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs such as the time required to gain access and close up. Those incidental costs, which might vary significantly among operators, are almost impossible to calculate. This AD has not been changed regarding this issue.

Explanation of Change to Paragraph (f) of This AD

We have revised paragraph (f) of this AD to clarify that there is an initial inspection that must be done for all airplanes and that the repetitive inspections must be done for airplanes on which no cracking is found.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect 164 airplanes of U.S. registry. We also estimate that it will take 9 work-hours per product to comply with this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $118,080, or $720 per product, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–09–08 Boeing: Amendment 39–15894. Docket No. FAA–2008–1239; Directorate Identifier 2008–NM–131–AD.

Effective Date

(a) This airworthiness directive (AD) is effective June 11, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008.

Unsafe Condition

(d) This AD results from reports of cracks in the radius detail of the upper lobe doublers. We are issuing this AD to detect and correct cracks in the upper lobe doublers. Such cracks could result in significant degradation of the fuselage structure and reduce its ability to carry flight loads from the vertical stabilizer, which could adversely affect the controllability of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Inspection(s) and Corrective Action

(f) At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, except as required by paragraph (i) of this AD, do an external surface high frequency eddy current inspection to detect cracks in the radius detail of the upper lobe doubler on both sides of the airplane, and the applicable corrective action, by accomplishing all the applicable actions specified in the Accomplishment Instructions of the service bulletin, except as required by paragraphs (g) and (h) of this AD. The applicable corrective action must be done before further flight. As applicable, repeat the inspection thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008.

(g) Where Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, paragraph 3.B., Work Instructions, PART 3, Step 1, specifies a sealant application ''from STA 2520 to STA 2521,'' this AD requires a sealant application ''from STA 2491 to STA 2521'' on both sides of the airplane.

(h) Where Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, specifies to contact Boeing for repair instructions instead of repairing or replacing any cracked upper lobe doubler in accordance with the service bulletin, this AD requires, before further flight, repairing any cracked upper lobe doubler using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Where Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle 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: Ivan Li, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6437; fax (425) 917–6590.

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

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

Material Incorporated by Reference

(k) You must use Boeing Alert Service Bulletin 747–53A2651, dated June 12, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

(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 22, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–9925 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1070; Directorate Identifier 2008–NM–087–AD; Amendment 39–15893; AD 2009–09–07]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. For all airplanes, this AD requires repetitive overhaul of the retract actuator beam of the main landing gear (MLG). For certain airplanes, this AD requires repetitive inspections for damage of the retract actuator beam, and related investigative and corrective actions if necessary. This AD results from reports of broken retract actuator beams of the MLG and the subsequent failure of the MLG to fully retract. We are issuing this AD to detect and correct broken retract actuator beams of the MLG, which could cause damage to the beam arm, hydraulic tubing, and flight control cables. Damage to the flight control cables could result in loss of control of the airplane.

DATES: This AD is effective June 11, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 11, 2009.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207; telephone 206–544–9990; fax 206–766–5682; e-mail *DDCS@boeing.com*; Internet *https://www.myboeingfleet.com*.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That NPRM was published in the **Federal Register** on October 8, 2008 (73 FR 58906). For all airplanes, that NPRM proposed to require repetitive overhaul of the retract actuator beam of the main landing gear (MLG). For certain airplanes, that NPRM proposed to require repetitive inspections for damage of the retract actuator beam, and related investigative and corrective actions if necessary.

Comments

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

Support for the NPRM

Boeing concurs with the contents of the NPRM.

Request To Change Overhaul Requirements

Continental Airlines (CAL) asks that we not mandate overhaul of the retract actuator beam using the instructions specified in the Accomplishment Instructions of Boeing Service Bulletin 737–32A1355, Revision 2, dated March 5, 2008. CAL states that the reason for release of Boeing Service Bulletin 737–32A1355, Revision 2, is Boeing's concern regarding shop process deficiencies at some repair facilities where correct overhaul procedures were not followed. CAL finds this reasoning detrimental to all operators that follow correct overhaul procedures at their repair facilities.

CAL landing gear components, including the retract actuator beams of the left and right main landing gear, are time controlled per the Boeing 737–300/–500 Maintenance Program and are scheduled to be overhauled at 10-year intervals at an FAA-approved landing gear overhaul facility. CAL also makes the following recommendations regarding Boeing Service Bulletin 737–32A1355, Revision 2:

- The stripping of all chrome and nickel plating specified in Step 4 of Figure 2 should be included as an option, as in the Boeing 737 Component Maintenance Manual (CMM), Section 32–00–05.
- The nital etch inspection of machined surfaces specified only in Step 9 of Figure 2 should not be limited to machined surfaces.
- The stress relieving of the part specified in Step 10 of Figure 2 should be an optional step, as specified in Boeing 737 CMM, Section 32–00–05.
- The shot peening of the entire part specified in Step 12 of Figure 2 should be limited to the machined areas of the part since the geometry of the actuator beam does not allow for effective shot peening of the entire area.
- A caution note for arc burns associated with grounding (similar to Step 14) should be included in Step 13 of Figure 2.

We disagree that using the instructions specified in the Accomplishment Instructions of Boeing Service Bulletin 737–32A1355, Revision 2, dated March 5, 2008, to perform the overhaul of the retract actuator beam should not be mandated. Revision 2 of Boeing Service Bulletin 737–32A1355 references improved overhaul procedures, and those procedures are required by this AD. However, according to the provisions of paragraph (i) of this AD, we may approve a request for using different overhaul procedures if the request includes data that prove that those procedures would provide an acceptable level of safety. We have not changed the AD in this regard.

We acknowledge the request for changes to Boeing Service Bulletin 737–32A1355, Revision 2. At the present time, Boeing has not issued a revised service bulletin with the changes. However, if Boeing Service Bulletin 737–32A1355, Revision 2, is revised after issuance of this AD, we might consider approving the revised service bulletin as an alternative method of compliance (AMOC) with the requirements of this AD. We have not changed the AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD affects 652 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action/airplane group	Work hours	Average labor rate per hour	Parts cost	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Overhaul for Group 1; Configurations 1, 2, and 3.	64	$80	None	$5,120, per overhaul cycle ..	652	$3,338,240
Inspection for Group 1, Configuration 3.	1	80	None	$80, per inspection cycle	525	42,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–09–07 Boeing: Amendment 39–15893. Docket No. FAA–2008–1070; Directorate Identifier 2008–NM–087–AD.

Effective Date

(a) This airworthiness directive (AD) is effective June 11, 2009.

Affected ADs

(b) None.

Applicability

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

Unsafe Condition

(d) This AD results from reports of broken retract actuator beams of the main landing gear (MLG) and the subsequent failure of the MLG to fully retract. We are issuing this AD to detect and correct broken retract actuator beams of the MLG, which could result in damage to the beam arm, hydraulic tubing, and flight control cables. Damage to the flight control cables could result in loss of control of the airplane.

Compliance

(e) Comply with this AD within the compliance times specified, unless already done.

Inspection and Related Investigative and Corrective Actions/Overhaul

(f) Except as provided by paragraphs (g) and (h) of this AD: At the applicable times specified in paragraph 1.E. of Boeing Service Bulletin 737–32A1355, Revision 2, dated March 5, 2008, inspect for damage of the retract actuator beam of the MLG and overhaul the retract actuator beam, as applicable, by doing all the applicable actions specified in the Accomplishment Instructions of Boeing Service Bulletin 737–32A1355, Revision 2, dated March 5, 2008. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspection or overhaul thereafter at the applicable time specified in paragraph 1.E. of Boeing Service Bulletin 737–32A1355, Revision 2, dated March 5, 2008.

Exceptions to Service Information

(g) Where Boeing Service Bulletin 737–32A1355, Revision 2, dated March 5, 2008, specifies a compliance time after ''* * * the date on this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(h) Boeing Service Bulletin 737–32A1355, Revision 2, dated March 5, 2008, specifies that the actions are for airplanes with new MLG retract actuator beams that have not been overhauled having part number (P/N) 65–46108–15 and subsequent dash numbers; and new or overhauled MLG retract actuator beams having P/N 65–46108–14 and previous dash numbers. However, this AD is not limited to new or overhauled beams. This AD requires that the actions required by paragraph (f) of this AD be done on airplanes with any MLG retract actuator beam having those P/Ns.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle 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: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; fax (425) 917–6590; or e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

Material Incorporated by Reference

(j) You must use Boeing Service Bulletin 737–32A1355, Revision 2, dated March 5, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207; telephone 206–544–9990; fax 206–766–5682; e-mail *DDCS@boeing.com*; Internet *https://www.myboeingfleet.com.*

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

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

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

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–9926 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1275; Directorate Identifier 2007–NM–167–AD; Amendment 39–15892; AD 2009–09–06]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD requires repetitive detailed and high frequency eddy current inspections to detect cracks of the backup intercostals and the upper sill of the forward airstair doorway, and applicable corrective actions. This AD also provides for an optional terminating action, which would eliminate the need for repetitive inspections. This AD results from a report indicating that cracks were found in the backup intercostals and upper sill web of the forward airstair doorway. We are issuing this AD to detect and correct fatigue cracking of the backup intercostals and upper sill web of the forward airstair doorway, which could result in a rapid loss of cabin pressure.

DATES: This AD is effective June 11, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 11, 2009.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6450; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That NPRM was published in the **Federal Register** on December 5, 2008 (73 FR 74080). That NPRM proposed to require repetitive detailed and high frequency eddy current inspections to detect cracks of the backup intercostals and the upper sill of the forward airstair doorway, and applicable corrective actions. That NPRM also provided an optional terminating action, which would eliminate the need for repetitive inspections.

Comments

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

Support for the NPRM

Boeing concurs with the contents of the NPRM.

Request for Clarification

Southwest Airlines requests more information regarding alternative procedures for airplanes that have had the airstair door deactivated per Boeing Service Bulletin 737–52–1092. Southwest Airlines asks whether instructions developed by operators, for open and close of an airstair door after deactivation per Boeing Service Bulletin 737–52–1092, will be considered approved equivalent procedures.

No alternative procedures have been established that have general FAA approval; however, according to the provisions of paragraph (h) of the final rule we may approve requests for different compliance methods if the requests include data that prove that the new methods would provide an acceptable level of safety.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are 1,712 airplanes of the affected design in the worldwide fleet. This AD affects 509 airplanes of U.S. registry. The inspections take 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $81,440, or $160 per airplane, per inspection cycle.

The optional terminating action, if done, would take 9 work hours, at an average labor rate of $80 per work hour. Required parts cost between $533 and $566 per airplane, depending on the airplane configuration. Based on these figures, the estimated cost of the optional terminating action would range between $1,253 and $1,286 per airplane, depending on the airplane configuration.

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–09–06 Boeing: Amendment 39–15892. Docket No. FAA–2008–1275; Directorate Identifier 2007–NM–167–AD.

Effective Date

(a) This airworthiness directive (AD) is effective June 11, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 737–53A1269, dated May 17, 2007.

Unsafe Condition

(d) This AD results from a report indicating that cracks were found in the backup intercostals and upper sill web of the forward airstair doorway. We are issuing this AD to detect and correct fatigue cracking of the backup intercostals and upper sill web of the forward airstair doorway, which could result in a rapid loss of cabin pressure.

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.

Inspections

(f) At the applicable compliance times and repeat intervals listed in the tables of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1269, dated May 17, 2007 (hereafter ''the service bulletin''), except as provided by paragraphs (f)(1), (f)(2), and (f)(3) of this AD: Do repetitive detailed and high frequency eddy current inspections to detect cracks of the backup intercostals and the upper sill of the forward airstair doorway, and applicable corrective actions by accomplishing all the applicable actions specified in the Accomplishment Instructions of the service bulletin. Do the applicable corrective actions before further flight.

(1) Where the service bulletin specifies a compliance time from the release date of the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where the columns identified as ''Airplane Flight Cycles'' in the tables of the service bulletin specify less than 45,000 total flight cycles for certain actions, this AD affects airplanes having less than or equal to 45,000 total flight cycles.

(3) Where the columns identified as ''Repeat Interval'' in the tables of the service bulletin specify an interval of 4,500 flight cycles for all conditions, this AD requires repetitive inspections only if no crack is found during any inspection required by paragraph (f) of this AD.

Optional Terminating Action

(g) Accomplishing the backup intercostal repair/preventative modification and/or the upper door sill web repair, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1269, dated May 17, 2007, terminates all the corresponding repetitive inspection requirements of paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle 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: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (917) 917–6450; fax (425) 917–6590.

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

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

Material Incorporated by Reference

(i) You must use Boeing Alert Service Bulletin 737–53A1269, dated May 17, 2007, to do the actions required by this AD, unless the AD specifies otherwise. The optional actions specified by this AD, if accomplished, must also be done in accordance with Boeing Alert Service Bulletin 737–53A1269, dated May 17, 2007.

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

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

(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 22, 2009.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–9947 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33–9006A; 34–59391A; 39–2462A; IC–28617A; File No. S7–12–08]

RIN 3235–AK13

Interactive Data for Mutual Fund Risk/Return Summary; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: The Securities and Exchange Commission is making technical corrections to rule amendments adopted in Release No. 33–9006 (February 11, 2009), which appeared in the **Federal Register** on February 19, 2009 (74 FR 7748). Specifically, the Commission is

making certain corrections to conform to technical amendments adopted in Release No. 33–9002A (April 1, 2009), which appeared in the **Federal Register** on April 7, 2009 (74 FR 15666).

DATES: *Effective Date:* July 15, 2009.

FOR FURTHER INFORMATION CONTACT: Deborah D. Skeens, Senior Counsel, Office of Disclosure Regulation, at (202) 551–6784, Division of Investment Management, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–5720.

SUPPLEMENTARY INFORMATION: The Commission is making the following corrections to Release No. 33–9006 (February 11, 2009), which was published in FR Doc E9–3359 appearing on page 7748 in the **Federal Register** on February 19, 2009. We are correcting cross-references in preliminary note 1 and paragraph (a) of Rule 405 [1] of Regulation S–T.[2]

§ 232.405 [Corrected]

1. Beginning on page 7775, second column and continuing on the third column, the last nineteen lines of Preliminary Note 1 to § 232.405 are corrected to read as follows:

''paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of both Form F–9 (§ 239.39 of this chapter) and Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), and General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter) specify when electronic filers are required or permitted to submit or post an Interactive Data File (§ 232.11), as further described in the Note to § 232.405.''

2. On page 7775, third column, the introductory text of paragraph (a)(2) of § 232.405 is corrected to read as follows:

''(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by Item 601(b)(101) of Regulation S–K, paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of either Form F–9 or Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F, paragraph C.(6) of the General Instructions to Form 6–K, or General Instruction C.3.(g) of Form N–1A, as applicable, as an exhibit to:''

3. On page 7775, in the third column, paragraph (a)(3) of § 232.405 is corrected to read as follows:

''(3) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, either Item 601(b)(101) of Regulation S–K, paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of either Form F–9 or Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F, paragraph C.(6) of the General Instructions to Form 6–K, or General Instruction C.3.(g) of Form N–1A; and''

4. Beginning on page 7775, third column and continuing on page 7776 in the first column, paragraph (a)(4) of § 232.405 is corrected to read as follows:

''(4) Be posted on the electronic filer's corporate Web site, if any, in accordance with, as applicable, either Item 601(b)(101) of Regulation S–K, paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of either Form F–9 or Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F, paragraph C.(6) of the General Instructions to Form 6–K, or General Instruction C.3.(g) of Form N–1A.''

Dated: May 1, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–10525 Filed 5–6–09; 8:45 am]

BILLING CODE P

[1] 17 CFR 232.405.

[2] 17 CFR 232.10 *et seq.*

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9449]

RIN 1545–BH84

Allocation and Reporting of Mortgage Insurance Premiums

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that explain how to allocate prepaid qualified mortgage insurance premiums to determine the amount of the prepaid premium that is treated as qualified residence interest each taxable year under section 163(h)(4)(F) of the Internal Revenue Code (Code). The temporary regulations also provide guidance to reporting entities receiving premiums, including prepaid premiums, for mortgage insurance. The temporary regulations reflect changes to the law made by the Tax Relief and Health Care Act of 2006 and the Mortgage Forgiveness Debt Relief Act of 2007. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on May 7, 2009.

Applicability Dates: For dates of applicability, see §§ 1.163–11T(d) and 1.6050H–3T(e).

FOR FURTHER INFORMATION CONTACT: Concerning § 1.163–11T, Angela Warren, (202) 622–4950; concerning § 1.6050H–3T, Stephen Coleman (202) 622–4910 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 419 of the Tax Relief and Health Care Act of 2006, Public Law 109–432 (120 Stat. 2967) (2006 Act), added sections 163(h)(3)(E), (h)(4)(E), and (h)(4)(F) to the Code. Section 3 of the Mortgage Forgiveness Debt Relief Act of 2007, Public Law 110–142 (121 Stat. 1803) (2007), amended section 163(h)(3)(E)(iv). In general, these new provisions treat certain qualified mortgage insurance premiums as qualified residence interest. This treatment applies only to certain qualified mortgage insurance premiums paid or accrued on or after January 1, 2007, and on or before December 31, 2010, on mortgage insurance contracts issued on or after January 1, 2007.

Section 163(h)(3)(E)(i) provides that premiums paid or accrued for qualified mortgage insurance in connection with acquisition indebtedness for a qualified residence are treated as qualified residence interest for purposes of section 163. Section 163(h)(4)(E) defines *qualified mortgage insurance* as (i) mortgage insurance provided by the Veterans Administration (VA), the Federal Housing Administration (FHA), or the Rural Housing Administration (Rural Housing),[1] and (ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901) as in effect on December 20, 2006). The amount

[1] References in section 163(h)(4)(E)(i) to the Veterans Administration and Rural Housing Administration are interpreted to mean their respective successors, the Department of Veterans Affairs and Rural Housing Service.

treated as qualified residence interest may be reduced or eliminated under section 163(h)(3)(E)(ii), which provides that the amount allowed as a deduction is phased out ratably by 10 percent for each $1,000 ($500 in the case of a married individual filing a separate return) that the taxpayer's adjusted gross income exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).

Section 163(h)(4)(F) states that any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which the amount is paid shall be chargeable to capital account and shall be treated as paid in the periods to which the amount is allocated. No deduction shall be allowed for the unamortized balance of the account if the mortgage is satisfied before the end of its term. The allocation rules in section 163(h)(4)(F) do not apply to amounts paid for qualified mortgage insurance provided by the VA or Rural Housing. Additionally, section 163(h)(3)(E)(iv)(II) disallows a deduction for amounts allocable to any period after December 31, 2010.

Section 419 of the 2006 Act also added section 6050H(h) to the Code, which generally provides that any person who, in the course of a trade or business, receives from an individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make an information return in the form prescribed by the Secretary. As defined in section 6050H(h)(3)(B), the term *mortgage insurance* has the same meaning as qualified mortgage insurance in section 163(h)(4)(E). See also Tax Technical Corrections Act of 2007, Public Law 110–172 (121 Stat. 2473) § 11(b)(2).

On January 8, 2008, the IRS and the Treasury Department published Notice 2008–15 (2008–4 IRB 4) (see § 601.601(d)(2)(ii)(*b*)) to provide guidance to individual taxpayers in determining the amount of prepaid qualified mortgage insurance premiums that is treated as qualified residence interest under section 163(h)(3)(E) that may be deducted in 2007, and to reporting entities receiving premiums, including prepaid premiums, for mortgage insurance in 2007. The notice provides that an individual taxpayer may allocate the prepaid premium ratably over the shorter of (1) the stated term of the mortgage, or (2) 84 months, beginning with the month in which the insurance was obtained. The notice also provides that reporting entities that receive mortgage insurance premiums of $600 or more in 2007 may report either the portion of the amount received that is allocable to 2007, the amount actually received, or the amount determined under an 84-month allocation method. The notice requested comments regarding the appropriate allocation method and reporting requirements that should apply to future years.

Summary of Comments on Notice 2008–15 and Explanation of Provisions

In response to Notice 2008–15, the Treasury Department and the IRS received several comments concerning the appropriate allocation methodology for prepaid qualified mortgage insurance premiums that are treated as qualified residence interest under section 163(h)(3)(E). One commenter recommended adopting the rule from Notice 2008–15 permitting taxpayers to allocate a prepaid premium ratably over the shorter of (1) the stated term of the mortgage, or (2) 84 months. According to this commenter, an 84-month allocation rule closely approximates the actual duration of the average mortgage insurance contract. Another commenter suggested adopting a three-year allocation period to coincide with the Department of Housing and Urban Development's (HUD) policy of refunding prepaid premiums on FHA loans. Under this policy, HUD refunds prepaid FHA mortgage insurance premiums if the borrower refinances the mortgage through another FHA loan within the first three years of the original loan term.

After consideration of these comments, the Treasury Department and the IRS are adopting the rule from Notice 2008–15 concerning allocation of prepaid qualified mortgage insurance premiums based on the understanding that the average life of a mortgage insurance contract on home mortgages generally is seven years (84 months). Accordingly, the temporary regulations add a new provision to the regulations under section 163. Notwithstanding the general rules for the treatment of qualified residence interest (for example, the period over which certain points paid to refinance a mortgage are allocable), § 1.163–11T provides that an individual taxpayer may allocate prepaid qualified mortgage insurance premiums that are treated as qualified residence interest under section 163(h)(3)(E) over the shorter of (a) the stated term of the mortgage, or (b) a period of 84 months. Instructions for calculating the portion of prepaid qualified mortgage insurance premiums that are deductible in a particular taxable year are in Publication 936, ''Home Mortgage Interest Deduction.''

The Treasury Department and the IRS received several comments in response to Notice 2008–15 concerning the appropriate reporting requirement. Some commenters suggested that mortgage servicers be required to report all mortgage insurance premiums received during the taxable year, including prepayments. Others suggested allowing mortgage servicers to report either (1) the amount of mortgage insurance premiums received, or (2) the amount disbursed during the taxable year to the issuer of the mortgage insurance policy.

After consideration of these comments, the Treasury Department and the IRS are adopting a rule requiring mortgage servicers to report the amount of all mortgage insurance premiums, including prepaid mortgage insurance premiums, received in the calendar year. The temporary regulations accordingly add a new provision to the regulations under section 6050H. Section 1.6050H–3T provides that a reporting entity that receives mortgage insurance premiums of $600 or more from an individual taxpayer during a calendar year shall make an information return setting forth the total amount received from that individual during the calendar year pursuant to the forms and instructions prescribed by the Secretary (currently reported in Box 4 of Form 1098 ''Mortgage Interest Statement'').

Several commenters suggested clarifying that there are separate $600 thresholds for reporting mortgage interest under section 6050H(a) and mortgage insurance premiums under section 6050H(h). Several commenters also requested inclusion of a separate standard for penalty relief for reporting mortgage insurance premiums in compliance with section 6050H(h). Such guidance is unnecessary, as sections 6050H(a) and 6050H(h) set forth separate $600 reporting thresholds for mortgage interest received and mortgage insurance premiums received, and the good faith standard for penalty relief in § 301.6724–1(a)(2)(i) applies to the reporting of mortgage insurance premiums.

Special Analyses

It has been determined that this Treasury decision 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. For applicability of

the Regulatory Flexibility Act (5 U.S.C. chapter 5), please refer to the Special Analyses section in the preamble to the cross-referenced notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Angella Warren, Office of the Associate Chief Counsel (Income Tax and Accounting), and Stephen Coleman, Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.163–11T is added to read as follows:

§ 1.163–11T Allocation of certain prepaid qualified mortgage insurance premiums (temporary).

(a) *Allocation*—(1) *In general.* As provided in section 163(h)(3)(E), premiums paid or accrued for qualified mortgage insurance during the taxable year in connection with acquisition indebtedness with respect to a qualified residence (as defined in section 163(h)(4)(A)) of the taxpayer shall be treated as qualified residence interest (as defined in section 163(h)(3)(A)). If an individual taxpayer pays such a premium that is properly allocable to a mortgage the payment of which extends to periods beyond the close of the taxable year (prepaid premium), the taxpayer must allocate the premium to determine the amount treated as qualified residence interest for each taxable year. The premium must be allocated ratably over the shorter of—

(i) The stated term of the mortgage; or

(ii) A period of 84 months, beginning with the month in which the insurance was obtained.

(2) *Limitation.* If a mortgage is satisfied before the end of its stated term, no deduction as qualified residence interest shall be allowed for any amount of the premium that is allocable to periods after the mortgage is satisfied.

(b) *Scope.* The allocation requirement in paragraph (a) of this section applies only to mortgage insurance provided by the Federal Housing Administration or private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901) as in effect on December 20, 2006). It does not apply to mortgage insurance provided by the Department of Veterans Affairs or the Rural Housing Service. Paragraph (a) of this section applies whether the qualified mortgage insurance premiums are paid in cash or are financed, without regard to source.

(c) *Cross reference.* For rules concerning the information reporting of premiums, including prepaid premiums, for mortgage insurance, see § 1.6050H–3T.

(d) *Effective/applicability date.* This section applies to prepaid qualified mortgage insurance premiums described in paragraph (a) of this section paid or accrued on or after January 1, 2008, and on or before December 31, 2010, for mortgage insurance provided by the Federal Housing Administration or private mortgage insurers issued on or after January 1, 2007.

(e) *Expiration date.* The applicability of this section expires on May 7, 2012.

■ **Par. 3.** Section 1.6050H–3T is added to read as follows:

§ 1.6050H–3T Information reporting of mortgage insurance premiums (temporary).

(a) *Information reporting requirements.* Any person who, in the course of a trade or business receives premiums, including prepaid premiums, for mortgage insurance (as described in paragraph (b) of this section) from any individual aggregating $600 or more for any calendar year, shall make an information return setting forth the total amount received from that individual during the calendar year pursuant to the forms and instructions prescribed by the Secretary.

(b) *Scope.* Paragraph (a) of this section applies to mortgage insurance provided by the Federal Housing Administration, Department of Veterans Affairs, or the Rural Housing Service (or their successor organizations), or to private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901) as in effect on December 20, 2006). The rule stated in paragraph (a) of this section applies to the receipt of all payments of mortgage insurance premiums, by cash or financing, without regard to source.

(c) *Aggregation.* Whether a person receives $600 or more of mortgage insurance premiums is determined on a mortgage-by-mortgage basis. A recipient need not aggregate mortgage insurance premiums received on all of the mortgages of an individual to determine whether the $600 threshold is met. Therefore, a recipient need not report mortgage insurance premiums of less than $600 received on a mortgage, even though it receives a total of $600 or more of mortgage insurance premiums on all of the mortgages for an individual for a calendar year.

(d) *Cross reference.* For rules concerning the allocation of certain prepaid qualified mortgage insurance premiums, see § 1.163–11T of this chapter.

(e) *Effective/applicability date.* This section applies to mortgage insurance premiums received on or after January 1, 2008.

(f) *Expiration date.* The applicability of this section expires on May 4, 2012.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: April 23, 2009.

Bernard J. Knight, Jr,

Acting General Counsel of the Treasury.

[FR Doc. E9–10662 Filed 5–6–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AN01

Presumptive Service Connection for Disease Associated With Exposure to Certain Herbicide Agents: AL Amyloidosis

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning presumptive service connection for a certain disease based on the most recent National Academy of Sciences (NAS) Institute of Medicine committee report, ''Veterans and Agent Orange: Update 2006'' (Update 2006). This amendment is necessary to implement a decision of the Secretary of Veterans Affairs that there is a positive association between exposure to herbicides used in the Republic of Vietnam during the Vietnam era and the subsequent development of

AL amyloidosis. The intended effect of this amendment is to establish presumptive service connection for AL amyloidosis based on herbicide exposure.

DATES: *Effective Date:* This amendment is effective May 7, 2009.

Applicability Date: The provisions of this regulation amendment apply to all applications for benefits pending before VA on or received after May 7, 2009. They also apply to review of certain previously denied claims to the extent provided in 38 CFR 3.816.

FOR FURTHER INFORMATION CONTACT: Maya Ferrandino, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 319–5847. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 3, 2008, VA published in the **Federal Register** at 73 FR 65280 a proposal to amend 38 CFR 3.309(e) to add AL amyloidosis to the list of diseases presumed service connected based on exposure to herbicide agents. Interested persons were invited to submit written comments on or before January 2, 2009. We received one comment.

Comment

The commenter stated that the proposed rule represents an ideological shift in disease categorization. The commenter stated that the proposed rule does not reflect the current criteria for causality contained in 38 U.S.C. 1116(b), which he stated requires direct evidence between exposure to an herbicide agent and the occurrence of a disease in humans. The commenter stated that the evidence that multiple myeloma and other lymphomas were connected to herbicide exposure was used by the Secretary to connect AL amyloidosis with herbicide exposure and that this process by the Secretary reflects a policy of providing service connection for disease groups rather than for separate diseases. He noted that section 1116(b) allows for service connection for a specific disease rather than for a group of diseases. The commenter stated that should the proposed rule go forward, section 1116(b) and § 3.309(e) should be revised to include service connection for disease entities and that regulations that refer to individual diseases should be reviewed and revised. He stated that the proposed rule could be revised to reflect a presumption of service connection for all diseases characterized by clonal hyperproliferation of B-cell derived plasma cells and production of abnormal amounts of immunoglobulins. The commenter stated that, in the alternative, the proposed rule should be withdrawn because there is no evidence that this disease entity is associated with exposure to herbicides.

Response

As stated in the proposed rule, the Secretary's determination regarding establishing presumptive service connection for AL amyloidosis is based on NAS' evaluation and its conclusion that there is limited or suggestive evidence of an association between herbicide exposure and AL amyloidosis. The Secretary did not make any determination concerning any disease other than AL amyloidosis. In this regard, the Secretary has followed the standards in section 1116(b) regarding establishing presumptive service connection for a disease associated with herbicide exposure. The comment states that this rule amends the ''causality'' criteria of section 1116(b). However, as shown in Update 2006, after quoting the criteria from section 1116(b), ''[the NAS committee's] congressional mandate and its statement of task are phrased in such a way that the target of evaluation is 'association,' not 'causality,' between exposure and health outcomes.'' Update 2006, p. 2.

The commenter's suggestion that this rule is contrary to section 1116(b) rests on the premise that the rule implicitly establishes a presumption for a group of related diseases, rather than for a specific disease. We do not agree with that premise. As noted above, the NAS and VA each made a finding specific to AL amyloidosis. As the commenter noted, the NAS relied primarily upon studies showing that AL amyloidosis is pathophysiologically related to other diseases that are currently presumed to be associated with herbicide exposure. That analysis, however, should not be interpreted to mean that an association between herbicide exposure and a particular disease justifies a finding of such an association for all similar or related diseases. Rather, the NAS and VA necessarily evaluate the body of relevant evidence for each disease.

The NAS noted that, because AL amyloidosis is a rare condition, ''it is not likely that population-based epidemiology will ever provide substantial direct evidence regarding its causation.'' Update 2006, p. 474. By statute, the NAS is directed to assess not only statistical associations based on epidemiologic studies, but also other factors such as ''whether there exists a plausible biological mechanism or other evidence of a causal relationship between herbicide exposure and the disease.'' Public Law 102–4, section 3(d)(1)(C). It appears that the NAS may have placed significant weight on the evidence of biologic plausibility in this instance in part because it is unlikely that other forms of relevant evidence for or against an association will ever become available. However, the determinations by NAS and VA concerning Al amyloidosis cannot reasonably be construed to reflect a shift in policy deviating from the requirements of section 1116(b), or to suggest that epidemiologic evidence is irrelevant to determinations concerning other diseases.

To the extent the commenter suggests an amendment to section 1116(b), such action would require legislation and is beyond the scope of this rule. We therefore make no change based on this comment.

VA appreciates the comment submitted in response to the proposed rule. Based on the rationale set forth in the proposed rule and the rationale contained in this document, we are adopting the provisions of the proposed rule as a final rule without change.

Administrative Procedures Act

Substantive changes made by this final rule are required to be effective the date of issuance pursuant to 38 U.S.C. 1116(c)(2). Accordingly, we are dispensing with the delayed effective date provisions of 5 U.S.C. 553.

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will not affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages;

distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Unfunded Mandates

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

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are 64.109, Veterans Compensation for Service-Connected Disability, and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Veterans, Vietnam.

Approved: April 3, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

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

Authority: 38 U.S.C. 501(a), unless otherwise noted.

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

§ 3.309 [Amended]

■ 2. In § 3.309(e), the listing of diseases is amended by adding ''AL amyloidosis'' immediately preceding ''Chloracne or other acneform disease consistent with chloracne.''

[FR Doc. E9–10627 Filed 5–6–09; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0514; FRL–8408–6]

Metconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for the residues of metconazole, including its metabolites and degradates, in or on corn, field, forage; corn, field, grain; corn, field, stover; corn, pop, grain; corn, pop, stover; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; corn, sweet, stover; cotton, undelinted seed; and cotton, gin byproducts. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA). This regulation also establishes tolerances for residues of metconazole, including its metabolites and degradates, in or on canola seed, and eggs. Valent U.S.A. Corporation requested the tolerance for canola seed under the FFDCA. EPA required an additional tolerance for eggs based on findings in the studies submitted by the registrant.

In addition, this action establishes time-limited tolerances for the residues of metconazole, including its metabolites and degradates, in or on sugarcane, cane at 1.6 ppm and sugarcane, molasses at 3.2 ppm, in response to the approval of crisis exemptions declared by the states of Florida and Louisiana under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing the quarantine use of the fungicide on sugarcane to control the fungal pathogen, *Puccinia kuehnii*. This regulation establishes a maximum permissible level of residues in this food commodity. The time-limited tolerances expire and are revoked on December 31, 2011.

DATES: This regulation is effective May 7, 2009. Objections and requests for hearings must be received on or before July 6, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for these actions under docket identification (ID) number EPA–HQ–OPP–2007–0514 (for BASF Corporation requested tolerances) and EPA–HQ–OPP–2008–0718 (for Valent U.S.A. Corporation requested tolerances). All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: For further information regarding the tolerances requested by BASF Corporation or Valent U.S.A. Corporation, please contact Tracy Keigwin, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6605; e-mail address: *keigwin.tracy@epa.gov*. For further information regarding the time-limited tolerance for the use of metconazole on sugarcane, please contact Libby Pemberton, Registration Division (7505P), Office of Pesticide Programs,

Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9364; e-mail address: *pemberton.libby@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at *http://www.epa.gpo/opptsfrs/home/guidelin.htm*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0514 (for BASF Corporation requested tolerances) and EPA–HQ–OPP–2008–0718 (for Valent U.S.A. Corporation requested tolerances) in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before July 6, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2007–0514 (for BASF Corporation requested tolerances) and EPA–HQ–OPP–2008–0718 (for Valent U.S.A. Corporation requested tolerances), by one of the following methods:

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

II. Petition for Tolerance

In the **Federal Register** of November 5, 2008 (73 FR 65849) (FRL–8385–1), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F7221) by BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528. The petition requested that 40 CFR 180.617 be amended by establishing tolerances for residues of the fungicide metconazole, 5-[(4-chlorophenyl)-methyl]-2,2-dimethyl-1-(1*H*-1,2,4-triazol-1-ylmethyl)cyclopentanol), measured as the sum of cis- and trans- isomers in or on the food commodities corn, field, aspirated grain fractions at 0.05 parts per million (ppm); corn, field, forage at 3.5 ppm; corn, field, grain at 0.02 ppm; corn, field, stover at 4.5 ppm; corn, pop, grain at 0.02 ppm; corn, pop, stover at 4.5 ppm; corn, sweet, forage at 3.5 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; corn, sweet, stover at 4.5 ppm; cotton, undelinted seed at 0.25 ppm; and cotton, gin byproducts at 8.0 ppm. That notice referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Additionally, in the **Federal Register** of November 5, 2008 (73 FR 65849), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7F7292) by Valent U.S.A. Company, 1600 Riviera Ave., Suite 200, Walnut Creek, CA 94596–8025. The petition requested that 40 CFR 180.617 be amended by establishing a tolerance for residues of the fungicide metconazole, 5-[(4-chlorophenyl)-methyl]-2,2-dimethyl-1-(1*H*-1,2,4-triazol-1-ylmethyl)cyclopentanol, measured as the sum of cis- and trans-isomers in or on the food commodity canola seed at 0.04 ppm. That notice referenced a summary of the petition prepared by Valent U.S.A. Corporation, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. Comments were received on the notice of filing. EPA's response to these comments is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA has modified the proposed tolerance levels as follows: Corn, field, forage and corn, sweet, forage decreased to 3.0 ppm. Additionally, no specific tolerance for corn, field, aspirated grain fractions is needed since residues from this commodity are covered under the 7.0 ppm tolerance for ''grain, aspirated grain fractions'' already established under § 180.617. Finally, a tolerance is required for metconazole residues in egg at 0.04 ppm. EPA has also modified the tolerance expression to clarify the scope of the tolerance and how compliance with the tolerance levels is to be determined.

The reason for these changes is explained in Unit IV.D.

At this time, EPA is also establishing time-limited tolerances for the residues of metconazole, including its

metabolites and degradates, in or on sugarcane, cane at 1.6 ppm and sugarcane, molasses at 3.2 ppm. These tolerances expire and are revoked on December 31, 2011. The Agency is establishing these time-limited tolerances in response to a crisis exemption request under FIFRA section 18 on behalf of the Florida Department of Agriculture & Consumer Services and the Louisiana Department of Agriculture & Forestry for emergency use of metconazole as a quarantine use on sugarcane to control fungal growth of *Puccinia kuehnii*.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of metconazole in or on sugarcane, cane and sugarcane, molasses. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerances under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although these time-limited tolerances expire and are revoked on December 31, 2011, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on sugarcane, cane and sugarcane, molasses after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether metconazole meets FIFRA's registration requirements for use in or on sugarcane, cane and sugarcane, molasses or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these time-limited tolerances serve as a basis for registration of metconazole by a State for Special Local Needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for persons in any State other than Florida and Louisiana to use this pesticide on these crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for metconazole, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the residues of metconazole, including its metabolites and degradates, in or on corn, field, forage; corn, field, grain; corn, field, stover; corn, pop, grain; corn, pop, stover; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; corn, sweet, stover; cotton, undelinted seed; cotton, gin byproducts; canola seed, and eggs. Additionally, EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of the additional emergency exemption request and the time-limited tolerances for the residues of metconazole including its metabolites and degradates, in or on sugarcane, cane at 1.6 ppm and sugarcane, molasses at 3.2 ppm. EPA's assessment of exposures and risks associated with establishing the permanent and time-limited tolerances follows.

A. Toxicological Profile

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

Acute oral and dermal toxicities to metconazole are moderate, while acute inhalation toxicity is low. Metconazole is a moderate eye irritant and a mild skin irritant. It is not a skin sensitizer. The liver is the primary target organ in the mouse, rat and dog following oral exposure to metconazole via subchronic or chronic exposure durations. Developmental studies in rats and rabbits show some evidence of developmental effects, but only at dose levels that are maternally toxic. Metconazole did not demonstrate the potential for neurotoxicity in the four species (mouse, rat, dog and rabbit) tested. Metconazole is considered nongenotoxic and liver tumors seen in a chronic mouse study appear to have been formed via a mitogenic mode of action and therefore, metconazole is classified as ''not likely to be carcinogenic to humans'' at levels that do not cause mitogenesis.

Specific information on the studies received and the nature of the adverse effects caused by metconazole as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* under docket ID number EPA–HQ–OPP–2006–0855.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the

human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-term, intermediate-term, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

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

A summary of the toxicological endpoints for metconazole used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of April 28, 2008 (73 FR 22823) (FRL–8360–5).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to metconazole, EPA considered exposure under the petitioned-for tolerances as well as all existing metconazole tolerances in 40 CFR 180.617. EPA assessed dietary exposures from metconazole and its metabolites, in food as follows:

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

In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). An acute dietary (food and drinking water) analysis for metconazole was conducted using tolerance level residues (for parent compound) and 100 percent crop treated (%CT) for all existing and proposed uses. For commodities that include metabolites as residues of concern in the risk assessment (i.e., cereal grains and livestock commodities), maximum residue values for the metabolites from field trials were added to the metconazole tolerance levels. Default concentration factors were used for processed commodities that do not have tolerances.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the same assumptions as stated in Unit C.1.i. for acute exposure.

iii. *Cancer*. Metconazole is classified as ''not likely to be carcinogenic to humans'' at levels that do not cause mitogenesis. The cPAD would be protective of mitogenesis/carcinogenesis and the chronic exposure assessment is appropriate for evaluating cancer risk.

iv. *Anticipated residue information*. Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

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

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated environmental concentrations (EECs) of metconazole for acute exposures are estimated to be 45 parts per billion (ppb) for surface water and 0.38 ppb for ground water. The EECs for chronic exposures for non-cancer assessments are estimated to be 31 ppb for surface water and 0.38 ppb for ground water. The EECs for chronic exposures for cancer assessments are estimated to be 22 ppb for surface water and 0.38 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 45 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration value of 31 ppb was used to assess the contribution to drinking water.

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

Metconazole is currently registered for the following residential non-dietary sites: Turf and ornamentals. Adult residential handlers may be exposed to metconazole as a result of applying metconazole to turf and ornamentals. Because dermal toxicity endpoints for the appropriate duration of exposure were not identified, only residential handler inhalation short-term exposures were assessed. Additionally, adults and adolescents may experience short-term and intermediate-term dermal post-application exposure from golfing and other activities on treated turf. Toddlers may experience short-term and intermediate-term dermal and incidental oral exposure from activities on treated turf. However, because dermal toxicity endpoints for the appropriate durations of exposure were not identified, and because inhalation exposure is considered to be insignificant for post-application exposures, only toddler incidental oral post-application exposures were assessed.

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

Metconazole is a member of the triazole-containing class of pesticides. Although conazoles act similarly in plants (fungi) by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same, sequence of major biochemical events. In conazoles, however, a variable pattern of

toxicological responses is found. Some are hepatotoxic and hepatocarcinogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no evidence to indicate that conazoles share common mechanisms of toxicity and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the conazoles. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

Triazole-derived pesticides can form the common metabolite, 1,2,4-triazole and three triazole conjugates (triazole alanine, triazole acetic acid, and triazolylpyruvic acid). To support existing tolerances and to establish new tolerances for triazole-derivative pesticides, including metconazole, EPA conducted a human health risk assessment for exposure to 1,2,4-triazole, triazole alanine, and triazole acetic acid resulting from the use of all current and pending uses of any triazole-derived fungicide as of September 1, 2005. The risk assessment is a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (e.g., use of a maximum combination of uncertainty factors) and potential dietary and non-dietary exposures (i.e., high end estimates of both dietary and non-dietary exposures). In addition, the Agency retained the additional 10X FQPA safety factor (SF) for the protection of infants and children. The assessment included evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's September 1, 2005 risk assessment can be found in the propiconazole reregistration docket at *http://www.regulations.gov*, Docket Identification Number EPA–HQ–OPP–2005–0497. In October and December of 2008, EPA updated the dietary and aggregate risk assessments for exposure to 1,2,4-triazole, triazole alanine, triazole acetic acid, and triazolylpyruvic acid resulting from the use of all current and pending uses of any triazole-derived fungicide to support existing tolerances and to establish new tolerances for new uses of metconazole (canola, corn, cotton, and sugarcane; PP#s 7F7221, 7F7292, 08FL03), propiconazole (beets, parsley, and pineapple; PP# 7F7300), prothioconazole (wheat and barley; PP# 7F7279), and tetraconazole (grapes; PP# 7E7273). These updated dietary and aggregate assessments are below the Agency's LOC. These updated triazole risk assessments can be found in the dockets associated with this Rule at *http://www.regulations.gov* (Docket IDs EPA–HQ–OPP–2007–0514 and EPA–HQ–OPP–2008–0718).

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity*. Acceptable developmental toxicity studies are available in the rat and rabbit as well as a 2–generation reproductive toxicity study in the rat. There is no evidence of susceptibility following *in utero* exposure in the rabbit. In the rat there is qualitative evidence of susceptibility, however the concern is low since the developmental effects are characterized as variations (not malformations), occur in the presence of maternal toxicity, the NOAELs are well defined, and the dose/endpoint is used for acute dietary risk assessment for the sensitive population. There is no evidence of increased susceptibility in the offspring based on the result of the 2–generation reproduction study.

3. *Immunotoxicity*. An immunotoxicity study is one of the new 40 CFR Part 158 toxicological data requirements. The Agency has evaluated the available metconazole toxicity database and has determined there is no evidence of immunotoxicity. Splenic effects were observed in the subchronic and chronic rat (19.2 and 56.2 milligrams/kilogram/day (mg/kg/day), respectively), subchronic and cancer mouse (50.5 and 56.2 mg/kg/day, respectively) and subchronic and chronic dog (22.5 and 114 mg/kg/day, respectively). However, the observed splenic effects including increased spleen weight and spleen congestion are likely a secondary effect of increased erythropoiesis due to a reduction in erythroctyes. The Agency does not believe that conducting an immunotoxicity study (OPPTS 870.7800) will result in a NOAEL lower than 4.3 mg/kg/day, which is presently used as the chronic Reference dose (cRfD) point of departure. An additional uncertainty factor for database uncertainties (UFDB) does not need to be applied.

4. *Conclusion*. EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for metconazole is complete except for immunotoxicity testing. EPA began requiring functional immunotoxicity testing of all food and non-food use pesticides on December 26, 2007. Since this requirement went into effect after the tolerance petition was submitted, these studies are not yet available for metconazole. The Agency has evaluated the available metconazole toxicity database and has determined there is no evidence of immunotoxicity. Due to the lack of evidence of immunotoxicity for metconazole, EPA does not believe that conducting immunotoxicity testing will result in a NOAEL less than the NOAEL of 4.3 mg/kg/day, which is already established as the cRfD point of departure for metconazole. An additional factor (UF_{DB}) for database uncertainties is not needed to account for potential immunotoxicity.

ii. There was no evidence of neurotoxicity observed in the toxicology database and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence of susceptibility following *in utero* exposure in the rabbit or in young rats in the 2–generation reproduction study. In the rat there is qualitative evidence of susceptibility, however the concern is low since the developmental effects are characterized as variations (not malformations), occur in the presence of maternal toxicity, the NOAELs are well defined, and the dose/endpoint is used for acute dietary risk assessment for the sensitive population.

iv. There are no residual uncertainties identified in the exposure databases. Dietary exposure assessments were conducted using tolerance level residues and assumed 100% crop treated for all crops. Therefore, the acute and chronic dietary, food only, exposure

is considered an upper bound conservative estimate. Acute and chronic exposure estimates in this analysis are unlikely to underestimate actual exposure. The drinking water component of the dietary assessment utilizes water concentration values generated by model and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations which will not likely be exceeded. While there is potential for post application residential exposure, the Agency used the current conservative approaches for residential assessment. The Agency believes that the calculated risks represent conservative estimates of exposure because maximum application rates are used to define residue levels upon which the calculations are based.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to the residues of metconazole, including its metabolites and degradates, will occupy 3.7% of the aPAD for the population group (females 13–49 years old) receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to the residues of metconazole, including its metabolites and degradates, from food and water will utilize 5.6% of the cPAD for the U.S. population and 12% of the cPAD for the most highly exposed population group (children 1–2 years old).

3. *Short-term risk*. Short-term risk takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Metconazole is currently registered for uses that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food, water, and short-term exposures for the residues of metconazole, including its metabolites and degradates.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that short-term aggregate MOE from dietary exposure (food + drinking water) and non-occupational/residential handler exposure (inhalation) for adults is 1,900. The short-term aggregate MOE from dietary exposure (food + drinking water) and non-occupational/residential exposure (incidental oral) for children 1–2 years old is 430. These MOEs are not of concern to the Agency since they are greater than the LOC of 100.

4. *Intermediate-term risk*. Intermediate-term risk takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Metconazole is currently registered for uses that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food, water, and intermediate-term exposures for the residues of metconazole, including its metabolites and degradates.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that intermediate-term aggregate MOEs from dietary exposure (food + drinking water) and non-occupational/residential handler exposure (inhalation) for adults is 1,400. The intermediate-term aggregate MOE from dietary exposure (food + drinking water) and non-occupational/residential exposure (incidental oral) for children 1–2 years old is 480. These MOEs are not of concern to the Agency since they are greater than the LOC of 100.

5. *Aggregate cancer risk for U.S. population*. Metconazole is classified as ''not likely to be carcinogenic to humans'' at levels that do not cause mitogenesis. As explained above, the cPAD is protective of mitogenesis and because the chronic risk assessment for metconazole shows exposure to be below the cPAD, there is no cancer concern.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography/nitrogen-phosphorus detection (GC/NPD) and liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) Method) is available to enforce the tolerance expression. The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are currently no Codex, Canadian, or Mexican MRLs established for metconazole.

C. Response to Comments

EPA received a total of three comments with regard to either EPA–HQ–OPP–2007–0514 or EPA–HQ–OPP–2008–0718. One of the comments appeared to have been filed in error as it discussed the security requirements for aircraft exceeding 12,500 lbs. The remaining two comments expressed concern regarding the potential for residues of metconazole to remain in the human body and the potential for adverse effects from pesticide application. EPA responds that before a chemical is registered for a particular use pattern a registrant is required to submit extensive data regarding the nature of the chemical and the potential for adverse effects on either the human or ecological population. This data is evaluated using the most conservative and stringent methods of safety, including the addition of extra SFs established for the protection of infants and children in order to ensure the well-being of the general U.S. population and various population subgroups.

D. Revisions to Petitioned-For Tolerances

Based upon review of the data supporting the petition for tolerance for corn commodities, EPA has modified the proposed tolerance levels for corn commodites as follows: Corn, field, forage decreased from 3.5 ppm to 3.0 ppm and corn, sweet, forage decreased from 3.5 ppm to 3.0 ppm. EPA revised these tolerance levels based on analysis of the residue field trial data using the Agency's Tolerance Spreadsheet in accordance with the Agency's Guidance for Setting Pesticide Tolerances Based on Field Trial Data Standard Operating Procedure (SOP). Additionally, no specific tolerance for corn, field, aspirated grain fractions is required

since residues from this commodity are covered under the established 7.0 ppm tolerance for ''grain, aspirated grain fractions.'' EPA is establishing a tolerance for metconazole residues in egg at 0.04 ppm because quantifiable residues of cis-metconazole were found in eggs in the animal feed study involving hens. Finally, EPA is modifying the tolerance expression for metconazole, as it applies to the newly-established tolerances, to clarify the scope of the tolerance and how compliance with the tolerance levels is to be determined. The revised tolerance expression makes clear that the tolerance covers metconazole, including all of its metabolites and degradates, although compliance with the residue levels specified in the tolerance is to be determined by measuring only metconazole (5-[4(-chlorophenyl)-methyl]-2, 2-dimethyl-1-(1*H*-1,2,4-triazol-1-ylmethyl)cyclopentanol) as the sum of its cis- and trans-isomers. The new tolerances will be included in a new paragraph with the revised tolerance expression. This revised expression is meant to capture more precisely EPA's intent with regard to the tolerance expression for the exisiting tolerances. EPA plans to update the tolerance expression for the existing tolerances in its next metconazole tolerance action.

V. Conclusion

Therefore, tolerances are established for the residues of metconazole, 5-[(4-chlorophenyl)-methyl]-2,2-dimethyl-1-(1*H*-1,2,4-triazol-1-ylmethyl)cyclopentanol, including its metabolites and degradates, in or on canola seed at 0.04 ppm; corn, field, forage at 3.0 ppm; corn, field, grain at 0.02 ppm; corn, field, stover at 4.5 ppm; corn, pop, grain at 0.02 ppm; corn, pop, stover at 4.5 ppm; corn, sweet, forage at 3.0 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; corn, sweet, stover at 4.5 ppm; cotton, undelinted seed at 0.25 ppm; cotton, gin byproducts at 8.0 ppm; egg at 0.04 ppm; and time-limited tolerances for sugarcane, cane at 1.6 ppm and sugarcane, molasses at 3.2 ppm.

VI. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: April 24, 2009.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180. 617 is amended by:

i. Redesignating paragraph (a) as paragraph (a)(1);

ii. Adding paragraph (a)(2); and

iii. Revising paragraph (b) to read as follows:

§ 180.617 Metconazole; tolerances for residues.

(a) *General.* (1) * * *.

(2). Tolerances are established for the residues of the fungicide metconazole, including its metabolites and degradates, in or on commodities in the following table. Compliance with the tolerance levels specified in the table is to be determined by measuring only metconazole, 5-[(4-chlorophenyl)-methyl]-2,2-dimethyl-1-(1*H*-1,2,4-triazol-1-ylmethyl)cyclopentanol) as the sum of its cis- and trans- isomers in or on the following commodities:

Commodity	Parts per million
Canola seed	0.04
Corn, field, forage	3.0
Corn, field, grain	0.02
Corn, field, stover	4.5
Corn, pop, grain	0.02
Corn, pop, stover	4.5

Commodity	Parts per million
Corn, sweet, forage	3.0
Corn, sweet, kernel plus cob with husks removed	0.01
Corn, sweet, stover	4.5
Cotton, undelinted seed	0.25
Cotton, gin byproducts	8.0
Egg	0.04

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the residues of the fungicide metconazole, including its metabolites and degradates, in or on the commodities listed in the following table in connection with the use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances expire and are revoked on the dates specified in the following table. Compliance with the tolerance levels specified below is to be determined by measuring only metconazole (5-[(4-chlorophenyl)-methyl]-2,2-dimethyl-1-(1*H*-1,2,4-triazol-1-ylmethyl)cyclopentanol) as the sum of its cis- and trans-isomers in or on the following commodities:

Commodity	Parts per million	Expiration/revocation date
Sugarcane, cane	1.6	12/31/11
Sugarcane, molasses	3.2	12/31/11

* * * * *

[FR Doc. E9–10500 Filed 5–6–09; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8073]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

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

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region III				
Pennsylvania:				
Bellefonte, Borough of, Centre County	420257	March 30, 1973, Emerg; February 2, 1977, Reg; May 7, 3009, Susp.	May 4, 2009	May 7, 3009.
Benner, Township of, Centre County	421460	April 7, 1975, Emerg; February 2, 1977, Reg; May 7, 3009, Susp.	do*	Do.
Boggs, Township of, Centre County	421193	September 16, 1975, Emerg; August 15, 1989, Reg; May 7, 3009, Susp.	do	Do.
Burnside, Township of, Centre County	421461	April 17, 1975, Emerg; January 17, 1986, Reg; May 7, 3009, Susp.	do	Do.
Collge, Township of, Centre County	420259	April 19, 1973, Emerg; July 4, 1989, Reg; May 7, 3009, Susp.	do	Do.
Curtin, Township of, Centre County	421462	November 15, 1974, Emerg; June 5, 1989, Reg; May 7, 3009, Susp.	do	Do.
Ferguson, Township of, Centre County	420260	May 17, 1973, Emerg; July 17, 1989, Reg; May 7, 3009, Susp.	do	Do.
Gregg, Township of, Centre County	421194	April 29, 1975, Emerg; November 2, 1984, Reg; May 7, 3009, Susp.	do	Do.
Haines, Township of, Centre County	420261	March 30, 1973, Emerg; August 1, 1978, Reg; May 7, 3009, Susp.	do	Do.
Halfmoon, Township of, Centre County	421463	April 30, 1975, Emerg; October 13, 1978, Reg; May 7, 3009, Susp.	do	Do.
Harris, Township of, Centre County	420262	June 6, 1973, Emerg; June 5, 1989, Reg; May 7, 3009, Susp.	do	Do.
Howard, Borough of, Centre County	420263	May 13, 1975, Emerg; August 3, 1989, Reg; May 7, 3009, Susp.	do	Do.
Howard, Township of, Centre County	421464	February 9, 1976, Emerg; August 3, 1989, Reg; May 7, 3009, Susp.	do	Do.
Huston, Township of, Centre County	421195	September 15, 1975, Emerg; June 5, 1989, Reg; May 7, 3009, Susp.	do	Do.
Liberty, Township of, Centre County	421196	April 13, 1976, Emerg; June 5, 1989, Reg; May 7, 3009, Susp.	do	Do.
Marion, Township of, Centre County	421465	July 29, 1975, Emerg; November 2, 1984, Reg; May 7, 3009, Susp.	do	Do.
Miles, Township of, Centre County	421197	March 10, 1975, Emerg; December 4, 1985, Reg; May 7, 3009, Susp.	do	Do.
Milesburg, Borough of, Centre County	420264	June 17, 1975, Emerg; February 2, 1977, Reg; May 7, 3009, Susp.	do	Do.
Millheim, Borough of, Centre County	420265	July 3, 1975, Emerg; June 5, 1989, Reg; May 7, 3009, Susp.	do	Do.
Patton, Township of, Centre County	420266	June 6, 1973, Emerg; February 19, 1986, Reg; May 7, 3009, Susp.	do	Do.
Penn, Township of, Centre County	421466	September 24, 1974, Emerg; October 17, 1989, Reg; May 7, 3009, Susp.	do	Do.
Philipsburg, Borough of, Centre County	420267	August 15, 1974, Emerg; August 15, 1990, Reg; May 7, 3009, Susp.	do	Do.
Port Matilda, Borough of, Centre County.	420268	January 7, 1975, Emerg; November 3, 1989, Reg; May 7, 3009, Susp.	do	Do.
Potter, Township of, Centre County	421467	July 7, 1975, Emerg; February 5, 1986, Reg; May 7, 3009, Susp.	do	Do.
Rush, Township of, Centre County	421468	February 11, 1975, Emerg; November 16, 1990, Reg; May 7, 3009, Susp.	do	Do.
Snow Shoe, Borough of, Centre County	421459	February 18, 1976, Emerg; August 10, 1979, Reg; May 7, 3009, Susp.	do	Do.
Snow Shoe, Township of, Centre County.	421198	February 18, 1976, Emerg; June 19, 1989, Reg; May 7, 3009, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Spring, Township of, Centre County	420269	October 13, 1972, Emerg; April 15, 1977, Reg; May 7, 3009, Susp.	.....do	Do.
State College, Borough of, Centre County.	420270	May 25, 1973, Emerg; June 30, 1976, Reg; May 7, 3009, Susp.	.....do	Do.
Taylor, Township of, Centre County	421469	June 24, 1981, Emerg; January 3, 1986, Reg; May 7, 3009, Susp.	.....do	Do.
Union, Township of, Centre County	421470	July 23, 1975, Emerg; July 17, 1989, Reg; May 7, 3009, Susp.	.....do	Do.
Unionville, Borough of, Centre County	420272	November 11, 1975, Emerg; November 3, 1989, Reg; May 7, 3009, Susp.	.....do	Do.
Walker, Township of, Centre County	421471	September 16, 1974, Emerg; July 17, 1989, Reg; May 7, 3009, Susp.	.....do	Do.
Worth, Township of, Centre County	421472	December 8, 1975, Emerg; August 15, 1989, Reg; May 7, 3009, Susp.	.....do	Do.
Virginia: Virginia Beach, City of, Independent City	515531	September 11, 1970, Emerg; April 23, 1971, Reg; May 7, 3009, Susp.	.....do	Do.
Region IV				
Florida:				
Perry, City of, Taylor County	120303	January 30, 1975, Emerg; May 17, 1982, Reg; May 7, 3009, Susp.	.....do	Do.
Taylor County, Unincorporated Areas	120302	April 25, 1975, Emerg; November 16, 1983, Reg; May 7, 3009, Susp.	.....do	Do.
Georgia:				
Gray, City of, Jones County	130237	May 29, 1975, Emerg; May 21, 1982, Reg; May 7, 3009, Susp.	.....do	Do.
Jones County, Unincorporated Areas	130434	November 10, 1987, Emerg; September 1, 1990, Reg; May 7, 3009, Susp.	.....do	Do.
North Carolina: Macon County, Unincorporated Areas	370150	November 21, 2000, Emerg; June 1, 2001, Reg; May 7, 3009, Susp.	.....do	Do.
Tennessee:				
Anderson County, Unincorporated Areas.	470217	August 5, 1975, Emerg; September 5, 1984, Reg; May 7, 3009, Susp.	.....do	Do.
Atoka, Town of, Tipton County	470419	NA, Emerg; May 8, 2001, Reg; May 7, 3009, Susp.	.....do	Do.
Calhoun, City of, McMinn County	470232	July 31, 1975, Emerg; July 3, 1986, Reg; May 7, 3009, Susp.	.....do	Do.
Chester County, Unincorporated Areas	470348	November 17, 1994, Emerg; September 28, 2007, Reg; May 7, 3009, Susp.	.....do	Do.
Clinton, City of, Anderson County	470001	July 28, 1972, Emerg; July 18, 1977, Reg; May 7, 3009, Susp.	.....do	Do.
Henderson, City of, Chester County	470029	July 25, 1975, Emerg; March 18, 1986, Reg; May 7, 3009, Susp.	.....do	Do.
Lake City, Town of, Anderson County	475436	October 23, 1970, Emerg; February 26, 1971, Reg; May 7, 3009, Susp.	.....do	Do.
Maury County, Unincorporated Areas	470123	November 29, 1985, Emerg; November 3, 1989, Reg; May 7, 3009, Susp.	.....do	Do.
Munford, City of, Tipton County	470422	NA, Emerg; June 30, 2003, Reg; May 7, 3009, Susp.	.....do	Do.
Norris, City of, Anderson County	470003	March 11, 1975, Emerg; June 25, 1976, Reg; May 7, 3009, Susp.	.....do	Do.
Oak Ridge, City of, Anderson, Roane Counties.	475441	December 17, 1971, Emerg; October 27, 1972, Reg; May 7, 3009, Susp.	.....do	Do.
Tipton County, Unincorporated Areas	470340	July 3, 1975, Emerg; April 2, 1991, Reg; May 7, 3009, Susp.	.....do	Do.
Region V				
Illinois:				
Cairo, City of, Alexander County	170004	November 5, 1971, Emerg; February 1, 1978, Reg; May 7, 3009, Susp.	.....do	Do.
East Cape Girardeau, Village of, Alexander County.	170916	May 5, 1976, Emerg; December 4, 1985, Reg; May 7, 3009, Susp.	.....do	Do.
Menard County, Unincorporated Areas	170505	May 1, 1975, Emerg; September 2, 1988, Reg; May 7, 3009, Susp.	.....do	Do.
Petersburg, City of, Menard County	170506	August 11, 1975, Emerg; September 18, 1975, Reg; May 7, 3009, Susp.	.....do	Do.
Tallula, Village of, Menard County	170803	June 3, 1976, Emerg; May 25, 1978, Reg; May 7, 3009, Susp.	.....do	Do.
Michigan:				
Baltimore, Township of, Barry County	260666	March 12, 1976, Emerg; July 18, 1985, Reg; May 7, 3009, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Castleton, Township of, Barry County	260641	September 26, 1975, Emerg; May 17, 1988, Reg; May 7, 3009, Susp.	.....do	Do.
Hastings, City of, Barry County	260314	January 22, 1976, Emerg; February 18, 1981, Reg; May 7, 3009, Susp.	.....do	Do.
Hastings, Township of, Barry County	260648	November 19, 1975, Emerg; June 15, 1981, Reg; May 7, 3009, Susp.	.....do	Do.
Homer, Township of, Midland County	260989	May 14, 1997, Emerg; NA, Reg; May 7, 3009, Susp.	.....do	Do.
Hope, Township of, Barry County	260681	June 7, 1976, Emerg; February 6, 1984, Reg; May 7, 3009, Susp.	.....do	Do.
Irving, Township of, Barry County	260354	January 31, 1991, Emerg; January 1, 1992, Reg; May 7, 3009, Susp.	.....do	Do.
Johnstown, Township of, Barry County	260355	July 15, 1976, Emerg; April 2, 1986, Reg; May 7, 3009, Susp.	.....do	Do.
Maple Grove, Township of, Barry County.	260644	October 30, 1975, Emerg; February 1, 1986, Reg; May 7, 3009, Susp.	.....do	Do.
Midland, City of, Midland, Bay Counties	260140	January 20, 1975, Emerg; June 15, 1984, Reg; May 7, 3009, Susp.	.....do	Do.
Midland, Township of, Midland County	260857	April 12, 2007, Emerg; NA, Reg; May 7, 3009, Susp.	.....do	Do.
Nashville, Village of, Barry County	260902	July 29, 1992, Emerg; December 6, 1999, Reg; May 7, 3009, Susp.	.....do	Do.
Rutland, Township of, Barry County	260656	February 13, 1976, Emerg; August 19, 1986, Reg; May 7, 3009, Susp.	.....do	Do.
Thornapple, Township of, Barry County	260630	August 26, 1975, Emerg; February 1, 1986, Reg; May 7, 3009, Susp.	.....do	Do.
Ohio:				
Bowerston, Village of, Harrison County	390257	August 8, 1975, Emerg; March 4, 1987, Reg; May 7, 3009, Susp.	.....do	Do.
Harrison County, Unincorporated Areas	390255	July 6, 1976, Emerg; NA, Reg; May 7, 3009, Susp.	.....do	Do.
Jewett, Village of, Harrison County	390259	June 17, 1975, Emerg; July 4, 1988, Reg; May 7, 3009, Susp.	.....do	Do.
Scio, Village of, Harrison County	390261	May 30, 1975, Emerg; March 4, 1987, Reg; May 7, 3009, Susp.	.....do	Do.
Region VII				
Missouri:				
Morgan County, Unincorporated Areas	290244	February 28, 1997, Emerg; December 1, 2001, Reg; May 7, 3009, Susp.	.....do	Do.
Versailles, City of, Morgan County	290247	November 11, 1975, Emerg; September 18, 1985, Reg; May 7, 3009, Susp.	.....do	Do.
Nebraska:				
Dodge County, Unincorporated Areas	310068	April 18, 1975, Emerg; August 17, 1981, Reg; May 7, 3009, Susp.	.....do	Do.
Hooper, City of, Dodge County	310379	March 15, 1976, Emerg; August 4, 1987, Reg; May 7, 3009, Susp.	.....do	Do.
Scribner, City of, Dodge County	310071	May 30, 1975, Emerg; November 1, 1979, Reg; May 7, 3009, Susp.	.....do	Do.
Winslow, Village of, Dodge County	310410	March 7, 1975, Emerg; December 4, 1979, Reg; May 7, 3009, Susp.	.....do	Do.
Region IX				
California:				
Mill Valley, City of, Marin County	060177	January 21, 1972, Emerg; January 3, 1979, Reg; May 7, 3009, Susp.	.....do	Do.
Tehama County, Unincorporated Areas	065064	April 23, 1971, Emerg; June 1, 1982, Reg; May 7, 3009, Susp.	.....do	Do.

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

Dated: April 23, 2009.

Michael K. Buckley,

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

[FR Doc. E9–10602 Filed 5–6–09; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–B–1048]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Mitigation Assistant Administrator of FEMA reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton Jr., Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by the other Federal, State, or regional entities. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Yavapai	City of Cottonwood (08–09–1293P).	March 13, 2009; March 20, 2009; *Prescott Daily Courier.*	The Honorable Diane Joens, Mayor, City of Cottonwood, 827 North Main Street, Cottonwood, AZ 86326.	July 20, 2009	040096
Colorado:					
Boulder	City of Longmont (08–08–0011P).	March 12, 2009; March 19, 2009; *Longmont Times-Call.*	The Honorable Roger Lange, Mayor, City of Longmont, 350 Kimbark Street, Longmont, CO 80501.	July 17, 2009	080027
El Paso	Unincorporated areas of El Paso County (08–08–0541P).	March 18, 2009; March 25, 2009; *El Paso County Advertiser.*	The Honorable Dennis Hisey, Chairman, El Paso County, Board of Commissioners, 27 East Vermijo Avenue, Colorado Springs, CO 80903–2208.	July 23, 2009	080059
Jefferson	City of Westminster (09–08–0055P).	March 12, 2009; March 19, 2009; *Westminster Window.*	The Honorable Nancy McNally, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	July 17, 2009	080008

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Teller	Unincorporated areas of Teller County (08–08–0921P).	March 11, 2009; March 18, 2009; *Pikes Peak Courier View*.	The Honorable James Ignatius, Chairman, Teller County, Board of Commissioners, 112 North A Street, Cripple Creek, CO 80813.	July 16, 2009	080173
Teller	Town of Woodland Park (08–08–0921P).	March 11, 2009; March 18, 2009; *Pikes Peak Courier View*.	The Honorable Steve Randolph, Mayor, City of Woodland Park, 220 West South Avenue, Woodland Park, CO 80866.	July 16, 2009	080175
Georgia:					
Barrow	Unincorporated areas of Barrow County (07–04–5359P).	March 25, 2009; April 1, 2009; *Barrow County News*.	The Honorable Daniel Yearwood Jr., Chairman, Barrow County, Board of Commissioners, 233 East Broad Street, Winder, GA 30680.	July 30, 2009	130497
Columbia	Unincorporated areas of Columbia County (08–04–3574P).	March 15, 2009; March 22, 2009; *Columbia County News-Times*.	The Honorable Ron C. Cross, Chairman, Columbia County, Board of Commissioners, P.O. Box 498, Evans, GA 30809.	July 20, 2009	130059
Hawaii: Hawaii	Unincorporated areas of Hawaii County (08–09–1568P).	March 12, 2009; March 19, 2009; *Hawaii Tribune-Herald*.	The Honorable William P. Kenoi, Mayor, Hawaii County, 25 Aupuni Street, Hilo, HI 96720.	July 17, 2009	155166
Illinois: McHenry	Village of Algonquin (08–05–3751P).	March 20, 2009; March 27, 2009; *Northwest Herald*.	The Honorable John Schmitt, President, Village of Algonquin, 2200 Harnish Drive, Algonquin, IL 60102.	July 27, 2009	170474
Missouri: St. Charles	City of St. Peters (08–07–1439P).	March 13, 2009; March 20, 2009; *St. Louis Post Dispatch*.	The Honorable Len Pagano, Mayor, City of St. Peters, One St. Peters Centre Boulevard, St. Peters, MO 63376.	July 20, 2009	290319
Ohio: Lorain	City of Avon Lake (08–05–5004P).	March 12, 2009; March 19, 2009; *Morning Journal*.	The Honorable Karl J. Zuber, Mayor, City of Avon Lake, 150 Avon Belden Road, Avon Lake, OH 44012.	February 27, 2009	390602
Oregon: Lane	Unincorporated areas of Lane County (08–10–0649P).	March 20, 2009; March 27, 2009; *The Register-Guard*.	The Honorable Faye Stewart II, Chairman, Lane County, Board of Commissioners, Lane County Public Service Building, 125 East Eighth Street, Eugene, OR 97401.	July 27, 2009	415591
South Carolina:					
Jasper	Town of Hardeeville (07–04–6247P).	February 4, 2009; February 11, 2009; *Jasper County Sun*.	The Honorable A. Brooks Willis, Mayor, Town of Hardeeville, 205 East Main Street, Hardeeville, SC 29927.	June 11, 2009	450113
Jasper	Unincorporated areas of Jasper County (07–04–6247P).	February 4, 2009; February 11, 2009; *Jasper County Sun*.	The Honorable George Hood, Chairman, Jasper County Council, P.O. Box 1149, Ridgeland, SC 29936.	June 11, 2009	450112

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 30, 2009.

Deborah S. Ingram,

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

[FR Doc. E9–10635 Filed 5–6–09; 8:45 am]

BILLING CODE 9110–12–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 549, and 552

[GSAR Amendment 2009–05; GSAR Case 2008–G515 (Change 31); Docket 2008–0007; Sequence 5]

RIN 3090–AI62

General Services Administration Acquisition Regulation; GSAR Case 2008–G515; Rewrite of GSAR Part 549, Termination of Contracts

AGENCIES: General Services Administration (GSA), Office of the Chief Acquisition Officer.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to revise the language that provides requirements for termination of contracts.

DATES: *Effective Date*: June 8, 2009.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Jeritta Parnell at (202) 501–4082. For information pertaining to the status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, 1800 F Street, NW, Washington, DC 20405, (202) 501–4755. Please cite GSAR case 2008–G515.

SUPPLEMENTARY INFORMATION:

A. Background

The GSA published a proposed rule with request for comments in the **Federal Register** at 73 FR 47123 on August 13, 2008. No comments were received in response to the proposed rule. This final rule revises GSAR Part 549, Termination of Contracts, by deleting the prescriptive language in GSAR 549.502, Termination for convenience of the Government, for two outdated clauses. The clause at GSAR 552.249–70, Termination for Convenience of the Government (Fixed-Price)(Short Form), and the clause at 552.249–71, Submission of Termination Liability Schedule, are being deleted. These are two GSA-unique clauses for acquisition and maintenance of telephone systems funded through the Information Technology (IT) Fund. This fund no longer exists. These clauses are obsolete.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*,

because the revisions are not considered substantive. The revisions delete obsolete coverage.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. Chapter 35, *et seq.*

List of Subjects in 48 CFR Parts 501, 549, and 552

Government procurement.

Dated: April 28, 2009.

Rodney P. Lantier,

Acting Senior Procurement Executive, Office of the Chief Acquisition Officer, General Services Administration.

■ Therefore, GSA amends 48 CFR parts 501, 549, and 552 as set forth below:

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

■ 1. The authority citation for 48 CFR parts 501 and 549 is revised to read as follows:

Authority: 40 U.S.C. 121(c).

501.106 [Amended]

■ 2. Amend section 501.106, in the table, by removing the GSAR reference number ''549.502(b)'' and its corresponding OMB Control Number ''3090–0027''; and the GSAR reference number ''552.249–71'', and its corresponding OMB Control Number 3090–0227.

PART 549—TERMINATION OF CONTRACTS

549.5 [Removed and Reserved]

■ 3. Remove and reserve Subpart 549.5, which consists of section 549.502.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. The authority citation for 48 CFR part 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

552.249–70 [Removed]

■ 6. Remove section 552.249–70.

552.249–71 [Removed]

■ 7. Remove section 552.249–71.

[FR Doc. E9–10532 Filed 5–6–09; 8:45 am]

BILLING CODE 6820–EP–S

Proposed Rules

Federal Register

Vol. 74, No. 87

Thursday, May 7, 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–2009–0431; Directorate Identifier 2007–NM–174–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310–203 and –222 Airplanes and Model A300 B4–620 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 that would supersede an existing AD. 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:

DGAC [Direction Générale de l'Aviation Civile] France AD 86–102–74(B) [which corresponds to FAA AD 88–06–03, amendment 39–5871] was issued to prevent development of damage, which was discovered during [a] fatigue test in the attachment angles of the rear pressure bulkhead (fuselage frame 80/82).

Following the life extension activities linked to the A310 program, the interval of inspection for A310–200 aircraft series was reduced from 12000 flight cycles (FC) to 9000 FC * * *.

Some stress analysis conducted in the frame of the life extension activities of the A300–600 program leads the manufacturer to reduce as well the interval of inspection applicable to A300B4–620 and A300C4–620 aircraft models.

The unsafe condition is cracking in the attachment angles of the rear pressure bulkhead, which could result in failure of the rear pressure bulkhead. 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 8, 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: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; 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–2009–0431; Directorate Identifier 2007–NM–174–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

On March 3, 1988, we issued AD 88–06–03, Amendment 39–5871 (53 FR 7730, March 10, 1988). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 88–06–03, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, advised that, due to life extension activities linked to the A310 program and stress analysis conducted in the frame of the life extension activities of the A300–600 program, the repetitive inspection interval for the attachment angles of the rear pressure bulkhead has been reduced from 12,000 flight cycles to 9,000 flight cycles for Model A310–203 and –222 airplanes and Model A300 B4–620 airplanes.

EASA has issued Airworthiness Directive 2007–0297R1, dated September 17, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

DGAC [Direction Générale de l'Aviation Civile] France AD 86–102–74(B) [which corresponds to FAA AD 88–06–03] was issued to prevent development of damage, which was discovered during [a] fatigue test in the attachment angles of the rear pressure bulkhead (fuselage frame 80/82).

Following the life extension activities linked to the A310 program, the interval of inspection for A310–200 aircraft series was reduced from 12000 flight cycles (FC) to 9000 FC, which prompted the issuance of EASA

AD 2007–0157, superseding DGAC France AD 86–102–74(B).

Some stress analysis conducted in the frame of the life extension activities of the A300–600 program leads the manufacturer to reduce as well the interval of inspection applicable to A300B4–620 and A300C4–620 aircraft models.

EASA AD 2007–02977 superseded EASA AD 2007–0157, retaining for A310 aircraft the requirements of EASA AD 2007–0157 and requiring the application of Airbus Service Bulletin (SB) A300–53–6005 Revision 4 on Airbus A300–600 aircraft, reducing the inspection interval from 12000 FC to 9000 FC.

[EASA] AD [2007–0297] has been revised to remove an inappropriate reference regarding the normal inspection program from the Compliance section, Note 3.

The unsafe condition is cracking in the attachment angles of the rear pressure bulkhead, which could result in failure of the rear pressure bulkhead. The required actions include a modification of the rear pressure bulkhead to improve the fatigue life of the attachment angles at frame (FR) 80/82, and, for certain airplanes, repetitive inspections for cracks in the rear pressure bulkhead and repair if necessary.

The modification includes installing additional attachment angles on the circumference of FR 80/82; installing a filler; installing additional supports between the aft pressure bulkhead and FR 80/82; installing an additional frame stiffener and support between the aft pressure bulkhead and FR 79 at stringer (STGR) 13; modifying the aft lavatories; applying surface protection to the modified area of the aft pressure bulkhead; modifying, reidentifying, and installing the heat and sound insulation in the area of STGR 9 and STGR 13 and between FR 79 and FR 80/82, left and right; and for certain airplanes, doing related investigative and corrective actions if necessary.

The related investigative action is doing a visual inspection around the entire circumference between FR 80/82 and the aft pressure bulkhead for damaged filler. The corrective action is removing any damaged filler and the adjacent area around the damage.

We have removed Airbus Model A310–221 airplanes having serial numbers 295 and 0306 from the applicability of this proposed AD. The MCAI does not include Airbus Model A310–221 in its applicability as it has been determined that those airplanes are not subject to the identified unsafe condition addressed by the relevant service information listed below. However, those airplanes are subject to certain other actions required by AD 2006–22–03, amendment 39–14800 (71 FR 62890, October 27, 2006), as specified in the ''Other Relevant Rulemaking'' paragraph below.

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

Relevant Service Information

Airbus has issued the following service bulletins:

- Airbus Service Bulletin A310–53–2024, Revision 05, dated October 13, 2006.
- Airbus Service Bulletin A310–53–2025, Revision 06, dated August 3, 2006.
- Airbus Service Bulletin A300–53–6005, Revision 04, dated July 18, 2007.
- Airbus Service Bulletin A300–53–6006, Revision 3, dated March 24, 1989.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

Other Relevant Rulemaking

We issued AD 2006–22–03 to prevent corrosion on the inner rim angle and cleat profile splice of the aft pressure bulkhead. That AD applies to Airbus Model A310 and A300–600 series airplanes, except airplanes on which Airbus Modification 6788 has been incorporated in production. That AD requires modification of the aft pressure bulkhead for improved corrosion protection and drainage, and a related concurrent action.

The related concurrent action specified in paragraph (h) of AD 2006–22–03 is a modification of the aft pressure bulkhead in accordance with Airbus Service Bulletin A310–53–2025, Revision 06, dated August 3, 2006, and Airbus Service Bulletin A300–53–6006, Revision 3, dated March 24, 1989, as applicable (which is the same modification that this NPRM would require). The compliance time to do the modification specified in paragraph (h) of AD 2006–22–03 is prior to or concurrent with the actions specified in paragraph (g) of AD 2006–22–03; the compliance time for paragraph (g) of AD 2006–22–03 is within 60 months after December 1, 2006 (the effective date of AD 2006–22–03). This NPRM would supersede AD 2006–22–03 to require that the modification of the aft pressure bulkhead be done before the accumulation of 12,000 total flight cycles since first flight, or within 1,500 flight cycles, whichever occurs later.

Certain airplanes affected by AD 2006–22–03 are also affected by this NPRM, and therefore, the requirements of this NPRM would necessitate that some operators do the modification required by paragraph (h) of AD 2006–22–03 early. Accomplishing the modification within the compliance time specified in paragraph (f)(2) of this NPRM is necessary to address cracking in the attachment angles of the rear pressure bulkhead, which could result in failure of the rear pressure bulkhead.

Other Corrosion and Fatigue ADs

Operators should note that we have also issued other ADs that involve work in the area of the aft pressure bulkhead. We issued those ADs to address unsafe conditions related to either corrosion or fatigue in the aft pressure bulkhead. The following table, titled ''Other relevant rulemaking,'' provides an overview of all those issued ADs.

TABLE—OTHER RELEVANT RULEMAKING

AD—	Refers to Airbus Service Bulletin—	Requiring—	Addressing—
88–06–03 (would be superseded by this proposed AD).	A310–53–2024, Revision 1, dated June 20, 1986; and Revision 3, February 17, 1987.	Repetitive inspections ...	Fatigue.
	A310–53–2025, original issue, dated April 21, 1986; and Revision 3, April 7, 1987.	Modification	Fatigue.
98–19–22, amendment 39–10763 (63 FR 49656, September 17, 1998) (superseded by AD 2005–26–16).	A300–53–6066, dated October 16, 1996; and Revision 01, dated March 11, 1998.	Repetitive inspections ...	Corrosion.
	A310–53–2092, dated October 16, 1996; and Revision 01, dated March 11, 1998.	Repetitive inspections ...	Corrosion.
2005–26–16, amendment 39–14437 (70 FR 77307, December 30, 2005).	A300–53–6136, Revision 01, dated July 18, 2005	Repetitive inspections ...	Corrosion.
	A310–53–2114, Revision 01, dated September 1, 2005.	Repetitive inspections ...	Corrosion.

TABLE—OTHER RELEVANT RULEMAKING—Continued

AD—	Refers to Airbus Service Bulletin—	Requiring—	Addressing—
2006–22–03, amendment 39–14800 (71 FR 62890, October 27, 2006).	A300–53–6017, Revision 02, dated February 25, 2004.	Modification	Corrosion.
	A310–53–2036, Revision 02, dated February 25, 2004.	Modification	Corrosion.
	A300–53–6006, Revision 3, March 24, 1989	Modification	Fatigue.
	A310–53–2025, Revision 06, August 3, 2006	Modification	Fatigue.

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 32 products of U.S. registry. We also estimate that it would take 668 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $15,322 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,200,384, or $68,762 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 removing Amendment 39–5871 (53 FR 7730, March 10, 1988) and adding the following new AD:

Airbus: Docket No. FAA–2009–0431; Directorate Identifier 2007–NM–174–AD.

Comments Due Date

(a) We must receive comments by June 8, 2009.

Affected ADs

(b) The proposed AD supersedes AD 88–06–03, Amendment 39–5871.

Applicability

(c) This AD applies to Airbus Model A310–203 and –222 airplanes, and Model A300 B4–620 airplanes; certificated in any category; all serial numbers except airplanes on which Airbus Modification 05526 has been incorporated in production.

Subject

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

Reason

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

DGAC (Direction Générale de l'Aviation Civile) France AD 86–102–74(B) [which corresponds to FAA AD 88–06–03, amendment 39–5871] was issued to prevent development of damage, which was discovered during [a] fatigue test in the attachment angles of the rear pressure bulkhead (fuselage frame 80/82).

Following the life extension activities linked to the A310 program, the interval of inspection for A310–200 aircraft series was reduced from 12000 flight cycles (FC) to 9000 FC, which prompted the issuance of EASA AD 2007–0157, superseding DGAC France AD 86–102–74(B).

Some stress analysis conducted in the frame of the life extension activities of the A300–600 program leads the manufacturer to

reduce as well the interval of inspection applicable to A300B4–620 and A300C4–620 aircraft models.

EASA AD 2007–0297 superseded EASA AD 2007–0157, retaining for A310 aircraft the requirements of EASA AD 2007–0157 and requiring the application of Airbus Service Bulletin (SB) A300–53–6005 Revision 4 on Airbus A300–600 aircraft, reducing the inspection interval from 12000 FC to 9000 FC.

[EASA] AD [2007–0297] has been revised to remove an inappropriate reference regarding the normal inspection program from the Compliance section, Note 3.

The unsafe condition is cracking in the attachment angles of the rear pressure bulkhead, which could result in failure of the rear pressure bulkhead. The required actions include a modification of the rear pressure bulkhead to improve the fatigue life of the attachment angles at frame (FR) 80/82; applicable related investigative and corrective actions; and, for certain airplanes, repetitive inspections for cracks in the rear pressure bulkhead and repair if necessary.

Requirements of This AD: Actions and Compliance

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

Modification

(1) Except as required by paragraph (f)(2) of this AD: Before the accumulation of 12,000 total flight cycles since first flight, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later, modify the aft pressure bulkhead to improve the fatigue life of the attachment angles at frame 80/82 and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–6006, Revision 3, dated March 24, 1989; or Airbus Service Bulletin A310–53–2025, Revision 06, dated August 3, 2006; as applicable. Do all applicable related investigative and corrective actions before further flight.

(2) For airplanes identified in paragraph (c) of AD 2006–22–03, amendment 39–14800: At the earlier of the compliance times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD, do the actions specified in paragraph (f)(1) of this AD.

(i) Before the accumulation of 12,000 total flight cycles since first flight, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later.

(ii) At the compliance time specified in paragraph (h) of AD 2006–22–03.

Inspections and Corrective Action

(3) For airplanes on which the modification required by paragraph (f)(1) or (f)(2) of this AD is done after the accumulation of 6,000 total flight cycles since first flight: At the times specified in paragraphs (f)(3)(i) and (f)(3)(ii) of this AD, do an eddy current inspection for any cracking in the critical area of the rear pressure bulkhead between stringers 8 and 18, and repair all cracking before further flight, in accordance with the Accomplishment Instructions of Airbus A300–53–6005, Revision 04, dated July 18, 2007; or Airbus Service Bulletin A310–53–2024, Revision 05, dated October 13, 2006; as applicable.

(i) Before or concurrently with the modification required by paragraph (f)(1) or (f)(2) of this AD, as applicable; and

(ii) Before the accumulation of 18,000 total flight cycles since first flight, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 9,000 flight cycles.

(4) For airplanes on which the modification required by paragraph (f)(1) or (f)(2) of this AD is done at or before the accumulation of 6,000 total flight cycles since first flight: Before the accumulation of 18,000 total flight cycles since first flight, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later, do an eddy current inspection for any cracking in the critical area of the rear pressure bulkhead between stringers 8 and 18, and repair all cracking before further flight, in accordance with the Accomplishment Instructions of Airbus A300–53–6005, Revision 04, dated July 18, 2007; or Airbus Service Bulletin A310–53–2024, Revision 05, dated October 13, 2006; as applicable. Repeat the inspection thereafter at intervals not to exceed 9,000 flight cycles.

(5) Modifications done before the effective date of this AD in accordance with the service bulletins identified in Table 1 of this AD are acceptable for compliance with the requirements of paragraph (f)(1) and (f)(2) of this AD.

TABLE 1—MODIFICATIONS DONE USING PREVIOUS SERVICE BULLETINS

Model	Airbus Service Bulletin	Revision	Dated
A300 B4–620 airplanes	A300–53–6006	Original	May 6, 1986.
	A300–53–6006	1	September 19, 1986.
	A300–53–6006	2	August 11, 1988.
A310–203 and –222 airplanes	A310–53–2025	Original	April 21, 1986.
	A310–53–2025	1	September 19, 1986.
	A310–53–2025	2	February 16, 1987.
	A310–53–2025	3	April 7, 1987.
	A310–53–2025	4	October 20, 1987.
	A310–53–2025	5	March 24, 1989.

(6) Inspections done before the effective date of this AD in accordance with the service bulletins identified in Table 2 of this AD are acceptable for compliance with the requirements of paragraph (f)(3) of this AD.

TABLE 2—INSPECTIONS DONE WITH PREVIOUS SERVICE BULLETINS

Model	Airbus Service Bulletin	Revision	Dated
A300 B4–620 airplanes	A300–53–6005	Original	May 6, 1986.
	A300–53–6005	1	June 20, 1986.
	A300–53–6005	2	September 22, 1986.
	A300–53–6005	3	April 22, 1987.
A310–203 and –222 airplanes	A310–53–2024	Original	April 21, 1986.
	A310–53–2024	1	June 20, 1986.
	A310–53–2024	2	October 2, 1986.
	A310–53–2024	3	February 17, 1987.
	A310–53–2024	4	February 2, 1988.

(7) Modification of the aft pressure bulkhead to improve the fatigue life of the attachment angles at frame (FR) 80/82 in accordance with paragraph (h) of AD 2006–22–03, is acceptable for compliance with the corresponding requirement of paragraphs (f)(1) and (f)(2) of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: This AD includes a compliance time specified in paragraph (f)(2) of this AD for airplanes that are also affected by AD 2006–22–03. We realize that the requirements of this AD will necessitate that some operators do the modification required by paragraph (h) of AD 2006–22–03 early. However, accomplishing the modification within the compliance time specified in this AD is required to address cracking in the attachment angles of the rear pressure bulkhead, which could result in failure of the rear pressure bulkhead.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; 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 EASA Airworthiness Directive 2007–0297R1, dated September 17, 2008, and the service bulletins listed in Table 3 of this AD, for related information.

TABLE 3—RELATED SERVICE BULLETINS

Airbus Service Bulletin	Revision	Date
A310-53-2024	05	October 13, 2006.
A310-53-2025	06	August 3, 2006.
A300-53-6005	04	July 18, 2007.
A300-53-6006	3	March 24, 1989.

Issued in Renton, Washington, on May 1, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–10614 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0429; Directorate Identifier 2007–NM–059–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300 and 737–400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 737–300 and 737–400 series airplanes. This proposed AD would require repetitive inspections to detect cracking of the aft fuselage skin, and related investigative/corrective actions if necessary. This proposed AD results from reports of cracks in the aft fuselage skin on both sides of the airplane. We are proposing this AD to detect and correct cracking in the aft fuselage skin along the longitudinal edges of the bonded skin doubler, which could result in reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by June 22, 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 W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*. 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 Management Facility 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 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: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590.

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–2009–0429; Directorate Identifier 2007–NM–059–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 because of those comments.

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

Discussion

We have received 159 reports of cracks in the fuselage skin aft of the wing on 68 Model 737–300 series airplanes with between 16,400 and 48,000 total flight cycles. Of those cracks, 120 were found between body station (BS) 727D and BS 747 and between stringers 14 and 25, on both sides of the airplanes. One crack was found above stringer 25 right (R) at BS 913. Several of the cracks occurred in multiple adjacent bays. The remaining cracks were scattered between BS 727 and BS 1016.

A total of 29 cracks have been reported on 29 Model 737–400 series airplanes with between 22,500 and 44,600 total flight cycles. The cracks on these airplanes were found on both the left and right sides of the airplanes between BS 727 and BS 947 in the skin panels between stringers 20 and 25. The cracks ranged in length between 0.25 and 5.5 inches. One operator reported a crack on an airplane with 22,500 total flight cycles. The crack was in the skin panel assembly just above stringer 25R between BS 727+10 and BS 727, and between stringers 23R and 24R.

On the existing skin panel assembly, the doubler is bonded to the skin. At these skin panel locations on the airplane, the in-service loads cause a condition that allows cracks to occur along the longitudinal edges of the skin where it bonded to the doubler. Cracking, if not corrected, could result in reduced structural integrity of the airplane.

Relevant Service Information

We have reviewed Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006 (for Model 737–300 series airplanes); and Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007 (for Model 737–400 series airplanes). The service bulletins describe procedures for repetitive inspections to detect cracking of the aft fuselage skin; and related investigative and corrective actions, if necessary.

For Model 737–300 series airplanes, in areas without modification stiffeners installed previously, and for Model 737–400 series airplanes, the inspection technique to be used depends on the inspection zone. The inspection techniques include: External detailed and external subsurface eddy current; external general visual (in areas not covered by fairings); external detailed or subsurface eddy current (in areas covered by fairings); or external detailed, and either external subsurface eddy current or magneto optical imaging.

For Model 737–300 series airplanes, in areas with modification stiffeners installed previously, the inspections include: External general visual inspections of the surface of the skin panels for evidence of loose fasteners or skin cracking; and a one-time subsurface eddy current inspection for evidence of loose fasteners or skin cracks.

For all airplanes, related investigative and corrective actions include the following: Internal general visual and high frequency eddy current inspections for disbonding and cracking of the bonded doubler; repair or replacement of the skin panel; an internal inspection of the chem-milled step in the skin area covered by the doubler; replacement of the skin panel and splice plate between body stations (BS) 727 and 907 and between Stringers 20 and 25; and sending any positive inspection results to Boeing.

In addition, the service bulletins describe procedures for doing a time-limited repair, including a detailed inspection for cracking of the fuselage skin, and installing a repair doubler; repeating inspections of repaired areas; repairing any cracking; making the repairs permanent within a specified compliance time; and replacing any loose fasteners.

The service bulletins also specify that repeat inspections are terminated in areas where the skin panel replacement had been done, and in repaired areas that meet the requirements specified in Table 1 of paragraph 1.E. of the service bulletins.

The compliance times specified in the service bulletins are identified in the tables below.

TABLE—COMPLIANCE TIMES FOR UNMODIFIED AREAS

Action	Inspection zone 1	Inspection zone 2	Inspection zone 3
Zone and initial inspections	Before accumulating 22,000 total flight cycles, or within 4,500 flight cycles after the release date of the service bulletin, whichever is later.		
Repetitive inspections	Option 1: Intervals not to exceed 3,700 flight cycles after the previous inspection; or Option 2: Intervals not to exceed 2,100 flight cycles after the previous inspection.	Intervals not to exceed 4,500 flight cycles after the previous inspection.	Option 1: Intervals not to exceed 3,700 flight cycles after the previous inspection; or Option 2: Intervals not to exceed 2,100 flight cycles after the previous inspection.

TABLE—COMPLIANCE TIMES FOR MODIFIED AREAS

Action	Compliance times for all zones
Zone and initial inspections	Before accumulating 22,000 total flight cycles or within 4,500 flight cycles after the release date of the service bulletin, whichever is later.
Repetitive inspections	Intervals not to exceed 4,500 flight cycles after the previous inspection.
Terminating action	Not before 20,000 flight cycles following modification (Figure 5 of Boeing Service Bulletin 737–53–1168, Revision 3).

TABLE—FOLLOW-ON ACTIONS AND COMPLIANCE TIMES IF THE TIME-LIMITED REPAIR IS DONE

If you do the time-limited repair, you must—	At this compliance time—
Do a detailed inspection of the fastener	At intervals not to exceed 3,000 flight cycles following the repair.
Replace a blind fastener with a solid fastener	Before the repair has reached 10,000 total flight cycles.
Do an internal inspection of the tear strap for disbonding and cracks	Within 4,500 flight cycles following the repair.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the(se) same type design(s). This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and Service Information.''

Differences Between the Proposed AD and Service Information

The service bulletins specify to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization whom we have authorized to make those findings.

Although the service bulletins referenced in this proposed AD specify to submit information to the manufacturer, this proposed AD does not include such a requirement.

Costs of Compliance

We estimate that this proposed AD would affect 516 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspection to determine inspection zones.	1	$0	$80	516	$41,280.
Repetitive inspections—Option 1.	64	0	$5,120, per inspection cycle	516	Up to $2,641,920.
Repetitive inspections—Option 2.	62	0	$4,960, per inspection cycle	516	Up to $2,559,360.
Internal inspection	5, per inspection zone (3 zones).	0	$1,200	516	$619,200.

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.

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

List of Subjects in 14 CFR Part 39

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

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:

Boeing: Docket No. FAA–2009–0429; Directorate Identifier 2007–NM–059–AD.

Comments Due Date

(a) We must receive comments by June 22, 2009.

Affected ADs

(b) None.

Applicability

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

(1) Boeing Model 737–300 series airplanes as identified in Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006.

(2) Boeing Model 737–400 series airplanes as identified in Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007.

Subject

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

Unsafe Condition

(e) This AD results from reports of cracks in the aft fuselage skin on both sides of the airplane. We are issuing this AD to detect and correct cracking in the aft fuselage skin along the longitudinal edges of the bonded skin doubler, which could result in reduced structural integrity of the airplane.

Compliance

(f) Comply with this AD within the compliance times specified, unless already done.

Inspections, Related Investigative and Corrective Actions

(g) At the applicable times specified in Tables 1 and 2 of paragraph 1.E. ''Compliance,'' of Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006 (for Model 737–300 series airplanes); or Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007 (for Model 737–400 series airplanes); except as provided by paragraph (k) of this AD: Do the applicable inspections and related investigative actions to detect cracks in the aft fuselage skin panels, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006; or Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007; as applicable, including Note (f) of Table 1 of paragraph 1.E. And, do the applicable corrective actions specified in the Accomplishment Instructions of Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006; or Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007; as applicable; except as provided by paragraphs (h), (i), and (l) of this AD. Repeat the applicable inspections and related investigative actions thereafter at the applicable intervals specified in Tables 1 and 2 of paragraph 1.E. of Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006; or Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007; as applicable.

(h) If any crack is found during any inspection or corrective action required by this AD, before further flight, repair in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006 (for Model 737–300 series airplanes); or Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007 (for Model 737–400 series airplanes); except, where Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006; or Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007; as applicable; specifies to contact Boeing, before further flight, repair according to a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(i) If any cracking of a repaired area is found during any inspection required by this AD, and Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006 (for Model 737–300 series airplanes); or Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007 (for Model 737–400 series airplanes); specifies contacting Boeing for appropriate action: Before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

Optional Terminating Action

(j) Doing the skin panel replacement in accordance with Part 3 of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006 (for Model 737–300 series airplanes); or Part III of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007 (for Model 737–400 series airplanes); terminates the inspection requirements of paragraph (g) of this AD for that skin panel only.

Exception to Service Bulletin

(k) Where Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006 (for Model 737–300 series airplanes); or Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007 (for Model 737–400 series airplanes); specifies compliance times after the release date of those service bulletins, this AD requires that the specified actions be done within the specified compliance times after the effective date of this AD.

No Reporting Required

(l) Although Boeing Service Bulletin 737–53–1168, Revision 3, dated November 28, 2006 (for Model 737–300 series airplanes); and Boeing Service Bulletin 737–53–1187, Revision 2, dated May 9, 2007 (for Model 737–400 series airplanes); specify to submit information to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, Seattle 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: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590. Or, e-mail information to *9–ANM–Seattle-ACO–AMOC–Requests@faa.gov.*

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

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

Issued in Renton, Washington, on May 1, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–10612 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0432; Directorate Identifier 2008–NM–168–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146–100A and 146–200A Series 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:

BAE Systems (Operations) Ltd has determined that in order to assure the continued structural integrity of the horizontal stabilizer lower skin and joint plates in the rib 1 area of certain BAe 146 aircraft, a revised inspection programme for this area is considered necessary. The disbonding of joints can lead to corrosion which, if undetected, could result in degradation of the structural integrity of the horizontal stabilizer.

* * * * *

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 8, 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–2009–0432; Directorate Identifier 2008–NM–168–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 2008–0167, dated September 2, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> BAE Systems (Operations) Ltd has determined that in order to assure the continued structural integrity of the horizontal stabilizer lower skin and joint plates in the rib 1 area of certain BAe 146 aircraft, a revised inspection programme for this area is considered necessary. The disbonding of joints can lead to corrosion, which, if undetected, could result in degradation of the structural integrity of the horizontal stabilizer.
>
> For the reasons described above, this EASA AD requires the implementation of repetitive inspections and corrective actions, depending on findings. It also provides an approved repair as optional terminating action for the repetitive inspections.

The repetitive inspections for damage of the left and right side of the horizontal stabilizer lower skin and joint plates include a detailed visual inspection for damage (including distortion, loose or distorted fasteners, and corrosion) of the horizontal stabilizer lower skin, a borescopic inspection for damage (including staining, debris around the stringer and joint plate edges, cracked or broken stringers, and distortion or corrosion in rivet holes) of the internal structure of the horizontal stabilizer, and a low frequency eddy current inspection for damage (including corrosion) of the horizontal stabilizer lower skin. For airplanes on which no damage is found, the required actions include drilling and reaming four holes and doing a detailed visual inspection of the holes for distortion and corrosion. Corrective actions include installing rivets, and contacting BAE Systems (Operations) Limited for repair instructions and doing the repair. Doing a repair of the horizontal stabilizer (which consists of partially replacing the lower skin from the center line to inboard of rib 3) ends the repetitive inspections.

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.55–020, dated December 11, 2007; and Repair Instruction Leaflet HC551H9061, Issue 3, dated January 31, 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 5 products of U.S. registry. We also estimate that it would take about 9 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 $3,600, or $720 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:

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA–2009–0432; Directorate Identifier 2008–NM–168–AD.

Comments Due Date

(a) We must receive comments by June 8, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A and 146–200A series airplanes, certificated in any category, as identified in BAE Systems (Operations) Limited Inspection Service Bulletin ISB.55–020, dated December 11, 2007.

Subject

(d) Air Transport Association (ATA) of America Code 55: Stabilizers.

Reason

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

BAE Systems (Operations) Ltd has determined that in order to assure the continued structural integrity of the horizontal stabilizer lower skin and joint plates in the rib 1 area of certain BAe 146 aircraft, a revised inspection programme for this area is considered necessary. The disbonding of joints can lead to corrosion, which, if undetected, could result in degradation of the structural integrity of the horizontal stabilizer.

For the reasons described above, this EASA AD requires the implementation of repetitive inspections and corrective actions, depending on findings. It also provides an approved repair as optional terminating action for the repetitive inspections.

The repetitive inspections for damage of the left and right side of the horizontal stabilizer lower skin and joint plates include a detailed visual inspection for damage (including distortion, loose or distorted fasteners, and corrosion) of the horizontal stabilizer lower skin, a borescopic inspection for damage (including staining, debris around the stringer and joint plate edges, cracked or broken stringers, and distortion or corrosion in rivet holes) of the internal structure of the horizontal stabilizer, and a low frequency eddy current inspection for damage (including corrosion) of the horizontal stabilizer lower skin. For airplanes on which no damage is found, the required actions include drilling and reaming four holes and doing a detailed visual inspection of the holes for distortion and corrosion. Corrective actions include installing rivets, and contacting BAE Systems (Operations) Limited for repair instructions and doing the repair. Doing a repair of the horizontal stabilizer (which consists of partially replacing the lower skin from the center line to inboard of rib 3) ends the repetitive inspections.

Actions and Compliance

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

(1) Within 6 months after the effective date of this AD, inspect for damage of the horizontal stabilizer lower skin and joint plates, in accordance with paragraphs 2.C.(1) through 2.C.(3) of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.55–020, dated December 11, 2007 (the ''service bulletin''); and, if no damage is found, drill and ream four holes in accordance with paragraph 2.C.(4)(a) of the service bulletin, and do a detailed visual inspection of the holes for distortion and corrosion, in accordance with paragraph 2.C.(4)(b) of the service bulletin.

(i) If any distortion or corrosion is found in any rivet hole, before further flight, contact BAE Systems (Operations) Limited for approved repair instructions and do the repair prior to the fitment of the rivets.

(ii) If no distortion and no corrosion is found, before further flight, install the four rivets in accordance with paragraph 2.C.(4)(c) of the service bulletin.

(2) Repeat the inspection for damage of the horizontal stabilizer lower skin and joint plates required by paragraph (f)(1) of this AD thereafter at intervals not to exceed 24 months.

(3) If damage is found during any inspection required by paragraph (f)(1) or (f)(2) of this AD, before further flight, contact BAE Systems (Operations) Limited in accordance with paragraph 2.C.(5) of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.55–020, dated December 11, 2007 (''the service bulletin''), and accomplish an approved repair in accordance with paragraph 2.C.(6) of the service bulletin.

(4) Doing the repair of the horizontal stabilizer in accordance with BAE Systems (Operations) Limited Repair Instruction Leaflet (RIL) HC551H9061, Issue 3, dated January 31, 2008, on the left and right sides of the horizontal stabilizer, terminates the repetitive inspections required by paragraph (f)(2) of this AD.

(5) Actions accomplished before the effective date of this AD according to BAE Systems (Operations) Limited RIL HC551H9061, Issue 2, dated November 16, 2007, are considered acceptable for compliance with the corresponding action specified in this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: 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 assure the product is airworthy before it is returned to service.

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2008–0167, dated September 2, 2008; BAE Systems (Operations) Limited Service Bulletin ISB.55–020, dated December 11, 2007; and BAE Systems (Operations) Limited Repair Instruction Leaflet HC551H9061, Issue 3, dated January 31, 2008; for related information.

Issued in Renton, Washington, on May 1, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–10615 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0430; Directorate Identifier 2008–NM–148–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 777–200 series airplanes. This proposed AD would require installing a new insulation blanket on the latch beam firewall of each thrust reverser (T/R) half. This proposed AD results from an in-flight shutdown due to an engine fire indication; an under-cowl engine fire was extinguished after landing. The cause of the fire was uncontained failure of the starter in the engine core compartment; the fire progressed into the latch beam cavity and was fueled by oil from a damaged integrated drive generator oil line. We are proposing this AD to prevent a fire from entering the cowl or strut area, which could weaken T/R parts and result in reduced structural integrity of the T/R, possible separation of T/R parts during flight, and consequent damage to the airplane and injury to people or damage to property on the ground.

DATES: We must receive comments on this proposed AD by June 22, 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 W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com.* 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 Management Facility 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 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: Margaret Langsted, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6500; fax (425) 917–6590.

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–2009–0430; Directorate Identifier 2008–NM–148–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 because of those comments.

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

Discussion

We have received a report of an in-flight shutdown due to an engine fire indication; an under-cowl engine fire was extinguished after landing. The cause of the fire was uncontained failure of the starter in the engine core compartment; the fire progressed into the latch beam cavity and was fueled by oil from a damaged integrated drive generator oil line. The fire breached the bolt on the aluminum plate on the rear of the latch beam firewall and moved inside the translating sleeve. Installation of a thermal insulation blanket over the bolt on the aluminum plate area at the rear of the latch beam will protect that area of the firewall so it is not breached by fire. A fire entering the cowl or strut area could weaken thrust reverser (T/R) parts and result in reduced structural integrity of the T/R, possible separation of T/R parts during flight, and consequent damage to the airplane and injury to people or damage to property on the ground.

Relevant Service Information

We have reviewed Boeing Service Bulletin 777–78A0066, Revision 1, dated March 12, 2009. The service bulletin describes procedures for installing bonded studs and a new thermal insulation blanket with sealant on the latch beam firewall of each T/R half.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 25 airplanes of U.S. registry. We also estimate that it would take about 7 work-hours per product to comply with this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost between $3,546 and $5,253 per product. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be between $102,650 and 145,325, or between $4,106 and $5,813 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.

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

List of Subjects in 14 CFR Part 39

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

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:

Boeing: Docket No. FAA–2009–0430; Directorate Identifier 2008–NM–148–AD.

Comments Due Date

(a) We must receive comments by June 22, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777–200 series airplanes, certificated in any category; as identified in Boeing Service Bulletin 777–78A0066, Revision 1, dated March 12, 2009.

Unsafe Condition

(d) This AD results from an in-flight shutdown due to an engine fire indication; an under-cowl engine fire was extinguished after landing. The cause of the fire was uncontained failure of the starter in the engine core compartment; the fire progressed into the latch beam cavity and was fueled by oil supplied by a damaged integrated drive generator oil line. We are issuing this AD to prevent a fire from entering the cowl or strut area, which could weaken thrust reverser (T/R) parts and result in reduced structural integrity of the T/R, possible separation of T/R parts during flight, and consequent damage to the airplane and injury to people or damage to property on the ground.

Subject

(e) Air Transport Association (ATA) of America Code 78: Exhaust.

Compliance

(f) Comply with this AD within the compliance times specified, unless already done.

Installation of Insulation Blanket

(g) Within 60 months or 4,500 flight cycles after the effective date of this AD, whichever is first: Install a new insulation blanket on the latch beam firewall of each T/R half by doing all the applicable actions specified in the Accomplishment Instructions of Boeing Service Bulletin 777–78A0066, Revision 1, dated March 12, 2009.

Credit for Actions Done Using Previous Service Information

(h) Actions done before the effective date of this AD in accordance with Boeing Alert Service Bulletin 777–78A0066, dated June 5, 2008, are acceptable for compliance with the corresponding requirements of paragraph (g) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle 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: Margaret Langsted, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6500; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

Issued in Renton, Washington, on May 1, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–10613 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0418; Directorate Identifier 2009–NM–020–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 190 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:

> During routine inspection procedures on the wing assembly line it was identified the possibility of cracks and deformation developing during assembly on the internal wing spars and rib flanges, causing a safe[ty] margin reduction.
>
> * * * * *

The unsafe condition is cracking and deformation of wing spar and rib flanges, which could result in loss of structural integrity of the wing. 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 8, 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos-SP—BRASIL; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; e-mail: *distrib@embraer.com.br*; Internet: *http://www.flyembraer.com.* 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: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

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–2009–0418; Directorate Identifier 2009–NM–020–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 Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2008–10–03, effective October 21, 2008 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During routine inspection procedures on the wing assembly line it was identified the possibility of cracks and deformation developing during assembly on the internal wing spars and rib flanges, causing a safe[ty] margin reduction.
>
> * * * * *

The unsafe condition is cracking and deformation of wing spar and rib flanges, which could result in loss of structural integrity of the wing. Corrective actions include performing a detailed inspection for damage on wing spar I, II, and III flanges and on certain rib flanges, and contacting ANAC (or its delegated agent) and Embraer for an approved repair. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Embraer has issued Service Bulletin 190–57–0023, dated June 9, 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 27 products of U.S. registry. We also estimate that it would take 10 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 $21,600, or $800 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:

Empresa Brasileira de Aeronautica S.A. (Embraer): Docket No. FAA–2009–0418; Directorate Identifier 2009–NM–020–AD.

Comments Due Date

(a) We must receive comments by June 8, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 190–100 ECJ, –100 LR, –100 IGW, –100 STD, –200 STD, –200 LR, and –200 IGW airplanes, certificated in any category, serial numbers 19000002, 19000004, and 19000006 through 19000062 inclusive.

Subject

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

Reason

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

During routine inspection procedures on the wing assembly line it was identified the possibility of cracks and deformation developing during assembly on the internal wing spars and rib flanges, causing a safe[ty] margin reduction.

* * * * *

The unsafe condition is cracking and deformation of wing spar and rib flanges, which could result in loss of structural integrity of the wing. Corrective actions include performing a detailed inspection for damage on wing spar I, II, and III flanges and on certain rib flanges, and contacting Agência Nacional de Aviação Civil (ANAC) (or its delegated agent) and Embraer for an approved repair.

Actions and Compliance

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

(1) Before 5,000 total flight cycles on the airplane, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later: Perform a detailed inspection of the left and right wing rib and spars I, II, and III flanges, in accordance with the Accomplishment Instructions of Embraer Service Bulletin 190–57–0023, dated June 9, 2008.

(2) If any cracking or deformation is detected during the inspection required by paragraph (f)(1) of this AD, before further flight, send the inspection results and request for repair instructions to ANAC (or its delegated agent) and Embraer Technical Support; e-mail *structure@embraer.com.br*; and do the repair.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: Although the MCAI or service information allows further flight after cracks are found during compliance with the required action, paragraph (f)(2) of this AD requires that you repair the crack(s) before further flight.

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

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

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

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2008–10–03, effective October 21, 2008; and Embraer Service Bulletin 190–57–0023, dated June 9, 2008; for related information.

Issued in Renton, Washington, on April 30, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–10624 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 145

[Docket No. FAA–2006–26408]

RIN 2120–AI53

Repair Stations; Withdrawal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: The FAA is withdrawing a previously published NPRM that proposed to revise the system of ratings and require repair stations to establish a quality program. The NPRM also proposed to require each repair station to maintain a capability list, designate a chief inspector, and have permanent housing for facilities, equipment, materials, and personnel. The proposal would have specified additional instances where the FAA may deny a repair station certificate, and clarified some existing repair station regulations.

We are withdrawing the NPRM because we have determined that it does not adequately address the current repair station environment, and because of the significant issues commenters raised.

DATES: The proposed rule published on December 1, 2006 (71 FR 70254), is withdrawn as of May 7, 2009.

FOR FURTHER INFORMATION CONTACT: George W. Bean, Repair Station Branch, AFS–340, Federal Aviation Administration, 955 L'Enfant Plaza, SW., Washington, DC 20024; telephone 202–385–6405; facsimile (202) 385–6474, e-mail *george.w.bean@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In 1989, the FAA held four public meetings to provide a forum for the public to comment on possible revisions to the rules governing repair stations.

After considering the comments and data collected from these meetings, the FAA published the Repair Stations notice of proposed rulemaking (NPRM) in June 1999.[1] Subsequently, in August 2001, the FAA published the Repair Stations; final rule with request for comments and direct final rule with request for comments; final rule.[2] The FAA requested comments on the paperwork burden and on removing appendix A [3] from part 145, which the FAA had not originally proposed.

On October 19, 2001, the FAA tasked the Aviation Rulemaking Advisory Committee (ARAC) to address ratings and quality assurance for repair stations.[4] ARAC provided its recommendations in May 2002.[5]

On December 1, 2006, the FAA published the NPRM entitled Repair Stations [6] that considered ARAC's recommendations. The comment period closed on March 1, 2007. However, the FAA received a request from the Aeronautical Repair Station Association (ARSA) to extend the comment period. In a notice published in the **Federal Register** on February 27, 2007, the FAA granted a 45-day comment period extension to April 16, 2007.[7]

The December 1, 2006 NPRM, applicable to repair station operators and applicants, proposed the following changes to part 145:

- Repair stations would establish and maintain a capability list of all articles for which they are rated. The list would identify each article by manufacturer and the type, make, model, category or other nomenclature designated by the article's manufacturer. Repair stations with an Avionics or a Component rating would be required to organize their lists by category of the article.
- The FAA would revise the ratings and classes that may be issued to a certificated repair station. The proposed amendments included ones that would discontinue the issuance of limited ratings, and instead allow issuance of limitations to the rating the certificated repair station holds.
- The FAA would require repair stations to establish a quality system that includes an internal evaluation system that reviews the complete repair station once a year.
- Applicants for a repair station certificate would include a letter of compliance as part of their application.
- A certificate holder would be required to provide permanent housing for its facilities, equipment, materials, and personnel.
- Certificate holders would be required to designate a chief inspector.
- The FAA would use certification from an authority ''acceptable to the FAA'' as a basis for issuing a certificate to a person located outside the United States.
- The FAA would identify reasons it could use to deny the issuance of a repair station certificate.

Discussion of Comments

The FAA received more than 500 comments to the NPRM. While there was general support for the need to revise the repair station rules, several commenters asked us to withdraw the rule. Many other commenters expressed concerns related to ratings (particularly avionics rating), capability list, quality system, letter of compliance, chief inspector, housing and facilities, the FAA's denial of a repair station certificate, and some were out of scope.

Requests To Withdraw the NPRM

The ARSA, Aircraft Electronics Association (AEA), AGC Incorporated, Spirit Avionics, Ltd., Temple Electronics Company, and Lynden Air Cargo recommended withdrawal of the rule. While ARSA commended the FAA for attempting to clarify and simplify the rating system, it suggested the FAA issue a supplemental notice of proposed rulemaking that considers the comments to the NPRM. The other commenters recommended withdrawal because there has been too much regulation of repair stations within the past few years.

Oversight and Inconsistent Application

Comments received from the International Brotherhood of Teamsters, Professional Airways Systems Specialists, and Transportation Trades Department generally support the proposal. The unions did argue, however, that the agency did not go far enough in certain areas involving oversight and surveillance. While the issues they raised were outside the scope of the proposal, various legislative proposals under consideration by the Congress may address these issues in the future.

Ratings

Several commenters, including Southern Avionics & Communications, Executive AutoPilots, Inc., Genesis Aviation, Aircom Avionics, American Airlines, Turbine Weld, Inc., and others, expressed general disapproval of the proposed rating system.

Spirit Avionics, Ltd., believes to combine the proposed new avionics rating with current market forces will negatively affect the ability of avionics-only repair stations to remain viable. The commenter said the NPRM does not recognize that avionics service facilities are transitioning to flight line repairs and avionics upgrades as main sources of revenue. The commenter also said the NPRM does not recognize that avionics repair stations' ability to perform such services are based primarily on the avionics equipment onboard the aircraft rather than on the type, make, or model of the aircraft.

Midcoast Aviation said while it believes including electrical equipment as part of an avionics rating to be appropriate, it does not see legitimacy in removing those [electrical] systems/components from the aircraft or powerplant rating.

Goodrich Aviation Technical Services said the proposed rule does not adequately define the type of work required for the avionics rating. It said a repair station with an aircraft, powerplant, or propeller rating should not be required to obtain a separate avionics rating to maintain articles associated with its ratings and capabilities. Midcoast Aviation commented similarly.

Spirit Avionics, Ltd., and Griffin Avionics, Inc., commented the change from an airframe to an aircraft rating is ambiguous and completely unnecessary. These commenters argued that this change is unwarranted and would result in dramatic increases in administrative costs, without improving aircraft maintenance safety or capability.

ARSA said since all ratings would require a capabilities list under the

[1] 64 FR 33142; June 21, 1999.

[2] 66 FR 41088; August 6, 2001.

[3] This Appendix set forth job functions and equipment requirements for repair stations.

[4] 66 FR 53281; October 19, 2001.

[5] *http://www.faa.gov/regulations_policies/rulemaking/committees/arac/.*

[6] 71 FR 70254; December 1, 2006.

[7] 72 FR 8641; February 27, 2007.

proposal, there does not appear to be a need for class ratings. It also said it does not agree with the limitations of some of the ratings or the proposed requirement for capabilities listing. Other commenters expressed a similar disagreement with the limitations and privileges of some ratings, stating the limitations do not appear consistent.

Capability List

Eighteen commenters, including Chromalloy Connecticut, Southern Avionics and Communication, Avionics Shop, Inc., Turbine Weld, Inc., Association of Asia Pacific Airlines, National Air Transportation Association (NATA), and others, stated strong opposition to the proposed capability list requirement. These commenters expressed concern that the proposed requirement would cause chaos and bankruptcy. They said such requirements are not justified, are unnecessary, are irrelevant, and are economically punitive, without offering further safety benefits.

Boeing believes the capability list would require a significant amount of administrative resources to be kept current and would require excessive amounts of information to be documented and tracked, particularly for larger repair stations. Boeing sees minimal to no safety benefits from these proposed requirements.

Airbus believes the requirement for a capability list is implicitly included in § 145.211. While it fully understands the need for a standardized format for such a list, the details as proposed in § 145.215 seem to go beyond a practical documentation under an approved system.

A number of commenters, including United Airlines, Turbine Weld, Inc., Griffin Avionics, Inc., AEA, and Temple Electronics Company object to the proposed capability list because it could require having several hundred types of ratings attached to a single repair station aircraft rating.

Quality System

ARSA commented that the majority of repair stations have not instituted quality assurance systems and most do not use computers. Therefore, reviewing, changing, and maintaining the proposed quality system would be expensive. Also, ARSA said repair stations cannot be held responsible for compliance with all part 145 regulations. But, can be held accountable only for ensuring compliance with those requirements under their specific responsibility and control.

AEA and Temple Electronics Company believe the stated benefit of the quality system requirements is based on ''false premises'' because the FAA cited different cost-benefit estimates in prior repair station rules. They commented that the FAA removed the quality assurance requirements proposed in the 1999 NPRM from the subsequent 2001 final rule because the requirements were overly burdensome and not cost effective. The commenters further said that, despite removal of these requirements from the 2001 final rule, the FAA introduced similar requirements in the 2006 NPRM, without taking time to assess whether the prior rule had proven successful.

Spirit Avionics, Ltd., Weld Avionics, Inc., Southern Avionics & Communications, Executive AutoPilots, Inc., Vero Beach Avionics, Inc., Aircraft Owners and Pilots Association, and two individual commenters said if a repair station properly performs maintenance according to FAA-approved processes, maintaining a Quality Assurance System would be extremely burdensome and would have little merit.

Letter of Compliance

ARSA, AEA, Temple Electronics Company, and Aeropro, Inc., said a mandatory Letter of Compliance would be burdensome, unnecessary, and redundant. AEA said the letter is a carryover from the period when the repair station manual was simply a statement of commitment to comply with the regulations. Aeropro, Inc., commented that because something has been a long standing practice is not sufficient reason to include it as a mandatory provision in the rule. It said including language similar to that in § 119.35, for certificate applications, would be more appropriate.

Chief Inspector

ARSA asked the FAA to withdraw the proposed requirement for a chief inspector, unless the agency can provide a specific definition of the position and justify the position's expenses against an increase in safety. Similarly, Aerospace Industries Association of America commented that its member companies cannot support the proposed requirement to create a chief inspector post in every repair station. The NPRM does not clearly define the functional responsibilities, accountability, and authority of the position, nor are the benefits of having such a position clearly defined.

Several other commenters, including Chromalloy Gas Turbine Corp., Boeing, TCI Inc., Aeropro, Inc., British Airways, Vero Beach Avionics, Inc., Marshall Aerospace, and several individual commenters expressed support for the above sentiments.

Housing and Facilities

The NATA, Midcoast Aviation, and Spirit Avionics, Ltd., said if the aircraft and personnel are protected during the repair or maintenance process, there is no need to build or lease an expensive hangar, which may prove to be financially unsound.

United Airlines and Islip Avionics, Inc., disagreed with the proposed permanent housing provision. They said they disagreed because not all repair or maintenance work requires a fully enclosed facility as some operations can be performed at the maintenance terminal, instead of at the hangar. Also, they said that some repair stations are located at airports that are publicly owned.

General Electric Company, Aviation Services, Boeing, and Aerospace Industries commented that repair stations holding aircraft ratings with limitations must not be subject to the undue burden of obtaining permanent housing. These commenters said the housing requirements should be in line with the appropriate ratings limitations.

Denial of a Repair Station Certificate

Aviation Services, Inc., (ASI) does not agree that a person who has had a repair station certificate revoked and met the other applicable conditions should be permanently ineligible for issuance of a repair station certificate, as proposed in § 145.53. ASI expressed concern that the primary basis for the FAA's proposed permanent revocation is based on one incident that ASI believes is not representative. It said if a permanent revocation is appropriate, it should apply only to repair stations that perform work for persons who operate under parts 121 and 135.

Aviation Suppliers Association (ASA), AEA, Temple Electronics Company, and Aeropro, Inc., believe proposed § 145.53(c) would apply overly severe punishment. AEA and Temple Electronics Company suggested that any revocation should be bound by some time frame and should be included as part of the enforcement action that revoked the certificate.

An individual commenter said, while the rule punishes inappropriate behavior, it does little to positively reinforce the safety culture created and sustained by top management.

Reason for Withdrawal

We are withdrawing the December 2006 Repair Station NPRM because it does not adequately address the current

repair station operating environment. Also, we are withdrawing it because of the many significant issues commenters to the NPRM raised, which the FAA needs to consider in developing a better proposal.

The current NPRM is based on recommendations developed in 2001 by ARAC. At that time, air carriers performed the majority of their maintenance work in-house. Since then, air carriers have increasingly contracted their maintenance. According to an analysis by the Office of Inspector General in 2003, the nine major air carriers were contracting 34 percent of their heavy airframe maintenance checks to repair stations. By 2007, this figure had increased to 71 percent.[8] The NPRM as written does not address this changing operational dynamic.

In their comments to the NPRM, many small repair station operators said the proposal takes a ''one-size-fits-all'' approach. This approach, they argue, does not adequately address the operational differences between large and small repair stations. As a result, the commenters said, the NPRM would place a substantial economic and administrative burden on their operations.

Many commenters, as noted in the Discussion of Comments section of this document, argued against adopting key portions of the NPRM for a variety of reasons. Several commenters asked us to withdraw the NPRM in its entirety. For the reasons we have discussed, we believe the best course of action is to withdraw the NPRM. Withdrawal will give us time to thoroughly review and properly address the substantial changes in the repair station operating environment and the many issues raised by commenters.

Conclusion

Withdrawal of the December 1, 2006, Repair Stations; Proposed Rule does not preclude the FAA from issuing another proposal on the subject. In fact, we have initiated rulemaking to update and revise the regulations for repair stations to more fully address the significant changes in the repair station business model. The new proposed rule will address concerns from the 2006 NPRM, as well as other issues related to bringing the repair station regulations up-to-date with industry practice. The public will be provided the opportunity for public comment on this rulemaking through the NPRM process.

[8] Air Carriers' Outsourcing of Aircraft Maintenance, OIG Report Number: AV–2008–090, September 30, 2008—*http://www.oig.dot.gov/item.jsp?id=2364*.

Issued in Washington, DC, on April 30, 2009.

Chester D. Dalbey,

Deputy Director, Flight Standards Service.

[FR Doc. E9–10638 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AC66

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

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') proposes to amend its regulations that prescribe minimum adjusted net capital (''ANC'') requirements for futures commission merchants (''FCMs'') and introducing brokers (''IBs''). The proposed amendments would increase the required minimum dollar amount of ANC, as defined in the regulations, that an FCM must maintain from $250,000 to $1,000,000. The proposed amendments also would increase the required minimum dollar amount of ANC that IBs must maintain from $30,000 to $45,000. The Commission also is proposing to amend the computation of an FCM's margin-based minimum ANC requirement to incorporate into the calculation customer and noncustomer positions in over-the-counter derivative instruments that are submitted for clearing by the FCM to derivatives clearing organizations (''DCOs'') or other clearing organizations (''cleared OTC derivative positions''). In addition, the Commission is proposing to amend the regulations to require that FCM proprietary cleared OTC derivative positions be subject to capital deductions in a manner that is consistent with the capital deductions required by the Commission's regulations for FCM proprietary positions in exchange-traded futures contracts and options contracts. Further, the Commission proposes to amend the FCM capital computation to increase the applicable percentage of the total margin-based requirement for futures, options and cleared OTC derivative positions in customer accounts from eight percent to ten percent and in noncustomer accounts from four percent to ten percent. Lastly, the Commission solicits public comments on the advisability of increasing the ANC requirement for FCMs that are also securities brokers and dealers by the amount of net capital required by the Securities and Exchange Commission (''SEC'') Rule 15c3–1(a).

DATES: Submit comments on or before July 6, 2009.

ADDRESSES: You may submit comments, identified by RIN number, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Agency Web Site: http://www.cftc.gov*. Follow the instructions for submitting comments on the Web site.
- *E-mail: secretary@cftc.gov*. Include the RIN number in the subject line of the message.
- *Fax:* 202–418–5521.
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

Hand Delivery/Courier: Same as mail above.

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

SUPPLEMENTARY INFORMATION:

I. Minimum Financial Requirements for FCMs and IBs

Section 4f(b) of the Commodity Exchange Act (''Act'') provides that FCMs and IBs must meet the minimum financial requirements that the Commission ''may by regulation prescribe as necessary to insure'' that FCMs and IBs meet their obligations as registrants.[1] FCMs are subject to higher capital requirements than IBs because the Act permits FCMs, but not IBs, to hold funds of customers trading on designated contract markets and to clear such positions with a DCO. In addition, Section 4d of the Act and the Commission's regulations provide

[1] The Act is codified at 7 U.S.C. 1 *et seq.* The Commission regulations cited herein may be found at 17 CFR Ch. I (2008).

further protection for customer funds by requiring that they be held as ''segregated'' funds that are separate and apart from the FCM's own proprietary funds. Part 30 of the Commission's regulations also requires FCMs to hold ''secured amount'' funds for U.S. customers trading in non-U.S. futures markets.

As specified in Commission Regulation 1.17(a), the minimum dollar amount of ANC that FCMs and IBs must maintain is $250,000 and $30,000, respectively. The minimum ANC requirements in Commission Regulation 1.17(a) also set forth other computations which, if greater, will increase the minimum capital requirement for the FCM or IB. Specifically, the relevant provisions of Regulation 1.17(a)(1)(i) require an FCM to maintain ANC equal to or in excess of the greatest of: $250,000; the FCM's margin-based or ''risk-based'' capital requirement, which is computed by adding together eight percent of the total risk margin requirement for positions in customer accounts, plus four percent of the total risk margin requirement for positions carried in noncustomer accounts; the amount of ANC required by a registered futures association of which the FCM is a member; or, if the FCM is also a securities broker and dealer registered with the U.S. Securities and Exchange Commission (''SEC''), the amount of net capital required by SEC Rule 15c3–1(a), 17 CFR 240.15c3–1(a). For an IB, Commission Regulation 1.17(a)(1)(iii) requires ANC that equals or exceeds the greatest of: $30,000; the amount of ANC required by a registered futures association of which the IB is a member; or for an IB also registered with the SEC as securities broker and dealer, the amount of net capital required by SEC Rule 15c3–1(a).

The minimum ANC requirements of $30,000 for IBs and $250,000 for FCMs were adopted by the Commission over a decade ago,[2] and are no longer consistent with the regulatory objective of requiring these registrants to maintain a minimum base of liquid capital from which to meet their current financial obligations, including obligations to customers. Adopting increased minimum ANC requirements for registrants whose customers engage in exchange-traded futures activity would recognize the striking increase over the past decade in the amount of funds that such customers have deposited with their FCMs. As of August 31, 1995, approximately $30 billion of segregated and secured amount funds were required to be held by FCMs for their customers, at a time when there were 255 FCMs. As of December 31, 2008, the total amount of such funds had escalated to approximately $200 billion, which 134 FCMs were required to hold for their customers. Thus, not only has there been a dramatic increase in the amount that FCMs must hold as segregated and secured amount funds for their customers, but those funds have become concentrated among far fewer FCMs, further supporting additional measures to ensure the sound financial strength of such firms.[3]

Other considerations also support the proposed increase in FCM and IB minimum dollar amount ANC requirements. As noted above, one of the factors in determining the minimum ANC requirements for FCMs and IBs is the minimum requirement imposed by a registered futures association of which the FCM or IB is a member. The National Futures Association (''NFA'') is the only registered futures association, and Commission Regulation 170.15(a) requires each registered FCM to be a member of a registered futures association. All registered IBs are also members of the NFA. On July 31, 2006, NFA's amendments to Section 1 of its Financial Requirements became effective, increasing its FCM members' minimum ANC requirement from $250,000 to $500,000, and increasing the required minimum dollar amount of ANC for member IBs from $30,000 to $45,000. Consequently, when the NFA amended the minimum dollar amount of ANC required of its member FCMs and IBs on July 31, 2006, the required dollar level of minimum ANC for all FCMs and IBs increased to $500,000 and $45,000 respectively. Therefore, the Commission's proposal to increase the minimum dollar ANC requirement of IBs to $45,000 merely harmonizes its regulations with NFA rules, which will simplify the capital calculations of IBs. Lastly, Commission staff notes that the number of FCMs that may have to add capital as a result of the proposed ANC requirement of $1,000,000 is minimal and that the proposed increased ANC requirement is appropriate for the reasons discussed above. Accordingly, the Commission is proposing to amend Regulation 1.17(a)(1)(iii)(A) to raise the minimum dollar amount of required ANC to $45,000 for IBs, and to amend Regulation 1.17(a)(1)(i)(A) to raise the minimum dollar amount of required ANC for FCMs to $1,000,000. The Commission is also proposing additional increases to ANC requirements for FCMs, as discussed below.

II. Proposed Amendment To Include Cleared OTC Positions in the Calculation of an FCM's Minimum Net Capital Requirement

The Commission's minimum financial requirements provide protection to customers and other market participants by requiring FCMs and IBs to maintain minimum levels of liquid assets in excess of their liabilities to finance their business activities. In 2004, the Commission amended Regulation 1.17(a)(1)(i)(B) to include a ''risk-based'' computation based on the margin, or performance bond, requirements for the FCM's customers and noncustomers. Specifically, Commission Regulation 1.17(a)(1)(i)(B) requires an FCM to compute its risk-based capital requirement as the sum of: (1) Eight percent of the total risk margin[4] requirement for positions carried by the FCM in ''customer accounts'', as defined in Regulation 1.17(b)(7), and (2) four percent of the total risk margin requirement for positions carried by the FCM in ''noncustomer accounts'', as defined in Regulation 1.17(b)(4). The Commission did not revise its regulations with respect to proprietary futures and granted options positions of FCMs, as such positions were already subject to capital deductions under Commission Regulation 1.17(c)(5)(x). In general, an FCM's proprietary futures and granted options positions are subject to a deduction equal to 100 percent of the maintenance margin requirement for positions that are cleared by clearing organizations of which the FCM is a clearing member, and 150 percent of the maintenance margin requirement for positions that are cleared by clearing organizations of which the FCM is not a clearing member.

In adopting risk-based capital requirements in Regulation 1.17 with respect to the futures and options positions of FCM customers and noncustomers, the Commission noted that the amendments included any customer positions, including non-futures positions, that were held in customer segregated accounts established in accordance with the provisions of Section 4d of the Act and Commission regulations. Various DCOs,

[2] The Commission increased the minimum ANC requirements of IBs and FCMs to $30,000 and $250,000 in May of 1996. *See* 61 FR 19177 (May 1, 1996).

[3] The Commission also notes that Congress recently recognized the importance of appropriate minimum capital requirements for registrants with obligations to customers by establishing a $20 million capital requirement for retail over-the-counter forex firms.

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

as part of their increasing efforts to clear OTC derivative instruments,[5] have requested Commission orders authorizing their clearing FCMs to commingle customers' money, securities, and other property margining OTC-cleared derivative positions with the money, securities, and other property deposited by said customers to margin futures and options positions in segregated accounts established pursuant to Section 4d of the Act.[6] Therefore, the risk exposure of clearing OTC derivative instruments extends not only to the FCM, but also to the segregated funds of its OTC, futures and options customers. Where OTC customer funds are commingled with the funds of futures and options customers, the Commission deemed it necessary to include OTC customer positions in the definition of ''customer accounts'' for purposes of computing an FCM's risk-based capital requirement.

The Commission now proposes further amendments to Regulation 1.17, in order to require FCMs to account for all cleared OTC derivative positions the FCM carries for customers, whether or not included in a Section 4d segregated customer account, in the FCM's risk-based capital calculations. The proposed amendments would apply to OTC derivative instruments cleared in either the U.S. or abroad by any organization that is permitted to clear such products under the laws of the relevant jurisdiction.[7] As drafted, the proposed capital requirements would also apply to credit default swaps, if these OTC derivative instruments are submitted for clearing on any U.S. DCO or foreign clearing organization and carried in accounts on the books of the FCM.

The Commission is proposing these amendments because FCMs and DCOs have become significant clearers of OTC derivative instruments. This has increased the risk exposure of FCMs in a manner that is not currently reflected in Regulation 1.17. Therefore, the Commission proposes to amend Regulation 1.17 in order to expand the definitions of ''customer account'' in Regulation 1.17(b)(7), ''noncustomer account'' in Regulation 1.17(b)(4), and ''proprietary account'' in Regulation 1.17(b)(3) to include cleared OTC derivative positions. Cleared OTC derivative positions would be defined in proposed Regulation 1.17(b)(9) as over the counter derivative instrument positions of any person[8] in accounts carried on the books of the FCM and cleared by any organization permitted to clear such instruments under the laws of the relevant jurisdiction. Additionally, Commission Regulation 1.17(b)(2) is proposed to be amended to include references to ''cleared OTC customers'', which would be defined in a proposed new paragraph (b)(10) to mean any person that is not a proprietary person as defined in Commission Regulation § 1.3(y) and for whom the FCM carries on its books one or more accounts for such person's OTC-cleared derivative positions. Finally, the Commission is also proposing to amend Regulation 1.17(c)(5)(x) to require FCMs to take proprietary capital deductions for their cleared OTC derivative positions similar to the capital deductions required for their proprietary futures and options positions. The Commission notes that pursuant to the proposed rulemaking, capital deductions to be applied to cleared OTC derivative positions in proprietary accounts do not apply to ''covered'' positions, as that term is defined in Commission Regulation 1.17(j). Therefore, the Commission is soliciting comments on the advisability of revising Commission Regulation 1.17(j) to reflect that cleared OTC positions in proprietary accounts may be covered by positions which would qualify as cover for proprietary futures and options positions.

The proposed amendments continue the Commission's efforts to enhance and update the Commission's ANC regulation to reflect the increasing diversity of positions that are submitted for clearing by clearing FCMs for their customers and noncustomers. In contemplation of this proposed rule making, the Commission notes that the clearinghouses that clear these OTC derivative instruments typically already require margin for both exchange-traded and OTC positions, regardless of whether the positions are held in customer segregated accounts. Furthermore, the margin requirements for cleared OTC derivative positions are often calculated in the same manner as that for exchange-traded products. As such, it is quite appropriate to include cleared OTC derivative positions in the calculation of an FCM's minimum ANC. However, to ensure adequate capital requirements where the clearinghouse imposes margin or performance bond requirements only for clearing level accounts but does not prescribe minimum margin requirements for customer or noncustomer accounts at the FCM level, the Commission also proposes to amend the definition of ''risk margin'' in Commission Regulation 1.17(b)(8) to mean ''the level of maintenance margin or performance bond required for the customer or noncustomer positions by the applicable exchanges or clearing organizations, and, where margin or performance bond is required only for accounts at the clearing organization, for purposes of the FCM's risk-based capital calculations applying the same margin or performance bond requirements to customer and noncustomer positions in accounts carried by the FCM.''

III. Proposed Amendment To Increase Applicable Percentage for Customer and Noncustomer Positions

As noted above, currently, an FCM's risk-based capital calculations includes a lower required percentage of risk maintenance margin for noncustomer

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

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

[7] Some examples of OTC-clearing by foreign clearing organizations include ICE, which clears through IceClear Europe, and Bclear, an exchange service launched by Euronext/Liffe, which brings derivatives transactions to LCH.Clearnet for clearing. The proposed rule would also include OTC-clearing by multilateral clearing organizations authorized under Section 409 of the Federal Deposit Insurance Corporation Improvement Act and any securities clearing organization.

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

positions (four percent) than the required percentage for the same positions in customer accounts (eight percent). The Commission believes that rigorous standards for FCM financial strength support the increase of the required percentages. As such, the Commission is proposing to amend Regulation 1.17 so that an FCM's risk-based capital requirement is ten percent of the total risk margin requirement for positions carried by the FCM in both ''customer accounts'', as defined in Regulation 1.17(b)(7), and ''noncustomer accounts'', as defined in Regulation 1.17(b)(4).

With respect to noncustomer accounts, the Commission notes that in general non-customers are persons affiliated with the FCM including certain employees and officers of the FCM. In adopting this lower percentage for noncustomer positions, the Commission noted that these percentages were the same as those contained in the self-regulatory organization rules upon which the Commission's regulation was modeled, and that it was the belief of these self-regulatory organizations that noncustomers' accounts reflected less credit risk to FCMs and the clearing system. In more recent times, the Commission has observed that the risk associated with noncustomer accounts may not necessarily be less than the risk associated with customer accounts under conditions of financial stress for the FCM. Therefore, to increase the financial integrity of the futures markets, the Commission is proposing to amend Regulation 1.17 to apply the same percentage requirement for both customer and noncustomer accounts. As part of its assessment of the proposed amendments, the Commission has been advised by staff that, based on the information included in financial reports filed by FCMs with the Commission, it appears that some FCMs whose minimum capital requirements are determined under the risk-based computations do not currently hold sufficient levels of capital to satisfy the proposed amended requirements, but that the overwhelming majority do hold levels of capital that are sufficient to satisfy the proposed new requirements.

IV. Proposed Effective Date

Because some FCMs may need time to raise additional capital, the Commission is contemplating making the effective date for any final rule amendments to Regulation 1.17 that it adopts effective 60 days from the date of publication of the final regulations in the **Federal Register**.

V. Solicitation of Comments

The Commission requests comments on each of the proposed amendments to Regulation 1.17 that are described in this release, and also as to the proposed effective date. The Commission is further soliciting comments on the advisability of expanding ANC requirements for FCMs that are also securities brokers and dealers (''FCM/BDs''), by increasing their ANC by the amount of net capital required by SEC Rule 15c3–1(a). Currently, Commission Regulation 1.17 and SEC Regulation 15c3–1 require FCM/BDs to compare the amounts of capital required under the SEC's and Commission's regulations, and to maintain capital in excess of whichever amount is greater.

The Commission notes that in event of liquidation, the adjusted net capital of an FCM that is also a securities broker and dealer is available to satisfy any unsecured claims of creditors, including any unsecured claims of both its futures and securities customers. The equity available to satisfy such unsecured claims of customers, would be increased if the FCM/BD's capital requirement was not based only on the higher of the CFTC's or SEC's requirements, but rather the combined requirements of the two regulations. This would help ensure that the FCM/BD's capital requirements reflected more fully the scope of customer activity by both its securities and futures customers. Therefore, the Commission is soliciting comments on the advisability of increasing ANC requirements of FCMs that are also securities brokers and dealers by the amount of net capital required by SEC Rule 15c3–1(a).

VI. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.,* requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments proposed herein would affect FCMs and non-guaranteed IBs. The Commission has previously determined that, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entity.[9]

With respect to IBs, the Commission stated that it is appropriate to evaluate within the context of a particular rule proposal whether some or all IBs should be considered to be small entities and, if so, to analyze the economic impact on such entities at that time.[10] The proposed amendment to the minimum ANC requirement for an IB would conform the Commission's requirement to that of the NFA and, therefore, should have no impact on an IB's financial operations. Thus, if adopted, the proposal would not have a significant economic impact on a substantial number of IBs. Therefore, pursuant to Section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman certifies that these proposed rule amendments will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1990, (''PRA'') 44 U.S.C. 3501 *et seq.,* imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The proposed inclusion of OTC-cleared products in the risk-based net capital calculation requires no change in line item 22A of the Statement of the Computation of Minimum Capital Requirements on Form 1–FR–FCM. There is a change to Line 22.B as a result of increasing the minimum dollar requirement to $1,000,000, however, this is a minor change and would not alter the reporting burden. The proposed increase in the percentage requirements applicable to risk margin requirements for customer and noncustomer positions included in risk-based capital calculation constitutes a minor change to line item 22 of the Form 1–FR–FCM, as does the minor change to Line 16 to include OTC-cleared products, but neither change would alter the related reporting burden. Therefore, the amendments proposed herein have minimal burden.

Persons wishing to comment on the estimated paperwork burden associated with these proposed rule amendments should contact Mark Bretscher, Division of Clearing and Intermediary Oversight, 525 W. Monroe St., Chicago, IL 60661, (312) 596–0529.

C. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by Section 119 of the Commodity Futures Modernization Act,[11] requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) as amended does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the

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

[10] See 48 FR 35248, 35275–78 (Aug. 3, 1983).

[11] 7 U.S.C. 19(a).

benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

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

The proposed amendments will result in additional protection of market participants and the public, enhancements to sound risk management practices, enhanced financial integrity of futures markets and other public interest considerations and should have no effect on the following areas: efficiency, competitiveness or price discovery. Specifically, if adopted, the proposed amendments will increase the minimum required dollar amount of ANC for FCMs from $250,000 to $1,000,000; increase the minimum required dollar amount of ANC for IBs from $30,000 to $45,000; require an FCM's risk based capital computation to include risk margin for OTC-cleared positions; and increase from 4 percent and 8 percent to 10 percent the applicable percentage of risk margin for all noncustomer and customer positions held by the FCM respectively.

After considering these factors, the Commission has determined to propose the amendments to Regulation 1.17 discussed above. The Commission invites public comment on its application of the cost-benefit provision. Commenters also are invited to submit any data that they may have quantifying the costs and benefits of the proposed amendments with their comment letters.

List of Subjects in 17 CFR Part 1

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

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 4f, 4g and 8a(5) thereof, 7 U.S.C. 6f, 6g and 12a(5), the Commission hereby proposes to amend 17 CFR part 1 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

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

2. Section 1.17 is amended by:

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

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

c. Adding new paragraphs (b)(9) and (b)(10), and

d. Revising paragraph (c)(5)(x) to read as follows:

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

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

(A) $1,000,000;

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

* * * * *

(iii) * * *

(A) $45,000;

* * * * *

(b) * * *

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

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

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

* * * * *

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

* * * * *

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

* * * * *

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

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

(c) * * *

(5) * * *

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

* * * * *

Issued in Washington, DC, on April 30, 2009 by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E9–10459 Filed 5–6–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–107271–08]

RIN 1545–BH83

Allocation and Reporting of Mortgage Insurance Premiums

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to prepaid qualified mortgage insurance premiums. The temporary regulations reflect changes to the law made by the Tax Relief and Health Care Act of 2006 and the Mortgage Forgiveness Debt Relief Act of 2007. The temporary regulations explain how to allocate prepaid qualified mortgage insurance premiums to determine the amount of the prepaid premium that is treated as qualified residence interest each taxable year under section 163(h)(4)(F) of the Internal Revenue Code (Code). The temporary regulations also provide guidance to reporting entities receiving premiums, including prepaid premiums, for mortgage insurance. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by August 5, 2009.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–107271–08), Room 5203, Internal Revenue Service, P.O. 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–107271–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–107271–08).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Angella Warren (202) 622–4950; concerning submission of comments or a request for a public hearing, Funmi Taylor at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the regulations under 26 CFR Part 1 relating to sections 163(h) and 6050H(h). The temporary regulations add rules relating to the proper allocation of prepaid qualified mortgage insurance premiums and provide guidance to reporting entities receiving mortgage insurance premiums. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

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. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have 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 request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Angella Warren, Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.163–11 is added to read as follows:

§ 1.163–11 Allocation of certain prepaid qualified mortgage insurance premiums.

[The text of this section is the same as the text of § 1.163–11T(a) through (d) published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.6050H–3 is added to read as follows:

§ 1.6050H–3 Information reporting of mortgage insurance premiums.

[The text of this section is the same as the text of § 1.6050H–3T(a) through (e) published elsewhere in this issue of the **Federal Register**].

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E9–10664 Filed 5–6–09; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2008–0812; FRL–8902–3]

Approval and Promulgation of Implementation Plans; Ohio; Volatile Organic Compound Emission Control Measures for Cleveland

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 23, 2009, the Ohio Environmental Protection Agency (Ohio EPA) submitted several volatile organic compound (VOC) rules for approval into the State Implementation Plan (SIP). The purpose of these rules is to satisfy the VOC reasonably available control technology (RACT) requirement for the Cleveland-Akron 8-hour ozone nonattainment area. These rules are approvable because they satisfy the control and enforceability requirements of RACT, including Ohio's requirement

to adopt VOC RACT rules for the Control Technique Guideline (CTG) documents issued by EPA in 2006 and 2007.

DATES: Comments must be received on or before June 8, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2008–0812, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax:* (312) 692–2551.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2008–0812. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal at (312) 886–6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Should I Consider as I Prepare My Comments for EPA?
II. What Action is EPA Taking Today?
III. What is the Purpose of this Action?
IV. What is EPA's Analysis of Ohio's Submitted VOC Rules?
V. Statutory and Executive Order Reviews

I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What Action Is EPA Taking Today?

EPA is proposing to approve several revised and new VOC rules into the Ohio SIP. Several rule revisions expand applicability to include sources in the Cleveland-Akron 8-hour ozone nonattainment area, in particular for commercial bakery oven facilities, synthetic organic chemical manufacturing industry (SOCMI) reactors and distillation units, process vents in batch operations, wood furniture manufacturing operations, and industrial wastewater operations. Ohio adopted new rules for aerospace manufacturing and rework facilities, ship building and ship repair operations, plastic parts coating, and the storage of volatile organic liquids. In addition, Ohio adopted new rules and revisions to existing rules to address the CTGs issued by EPA in 2006 and 2007. These CTG categories are lithographic printing, industrial solvent cleaning, flat wood paneling, paper coating, metal furniture coating, large appliance coating, and flexible package printing. Ohio adopted several other minor revisions.

III. What Is the Purpose of This Action?

The primary purpose of these rules is to satisfy the requirement in section 182(b) of Part D of title I of the Clean Air Act (CAA) that VOC RACT rules be adopted for the Cleveland-Akron 8-hour ozone nonattainment area. These rules satisfy the requirement for VOC RACT rules for existing, pre-2006, CTG and major non-CTG source categories which were due on September 15, 2006, as well as the requirement to adopt VOC RACT rules for the CTG documents issued by EPA in 2006 and 2007.

On March 24, 2008 (73 FR 15416), EPA made a finding that Ohio failed to submit those VOC RACT rules which were due on September 15, 2006, for the Cleveland-Akron 8-hour ozone nonattainment area. Ohio submitted the fully adopted required VOC RACT rules to EPA on September 4, 2008. In a

November 19, 2008, letter to Ohio, EPA confirmed that Ohio's September 4, 2008, submittal satisfies the requirement for VOC RACT for existing, pre-2006, CTG and major non-CTG source categories which was due on September 15, 2006. Failure to submit a complete VOC RACT submittal would have triggered the offset sanction identified in CAA section 179(b)(2) on September 24, 2009, and the highway funding sanction in accordance with CAA section 179(b)(1) on March 24, 2010. EPA will be required by CAA section 110(c) to promulgate a Federal Implementation Plan (FIP) if it has not approved these VOC RACT rules into Ohio's SIP by March 24, 2010.

Finalization of the action proposed here would end any obligation for EPA to promulgate a FIP addressing this VOC RACT requirement.

After September 4, 2008, Ohio completed additional rulemaking on rules to address CTGs issued in September 2006 and September 2007. Ohio's submittal of March 23, 2009, incorporates the rule revisions submitted September 4, 2008, as well as the VOC rule revisions adopted thereafter.

IV. What Is EPA's Analysis of Ohio's Submitted VOC Rules?

(1) 3745–21–01—Definitions

Revisions to this section primarily consist of new definitions that are needed to support the new and revised rules. These definitions are consistent with EPA RACT guidance and are approvable.

(2) 3745–21–02—Ambient Air Quality Standards and Guidelines

This section is approvable because the carbon monoxide and 8-hour ozone standards are consistent with EPA standards.

(3) 3745–21–03—Methods of Ambient Air Quality Measurement

This section is approvable because the carbon monoxide and ozone measurement methods follow EPA procedures.

(4) 3745–21–04—Compliance Schedules and 3745–21–06—Classification of Regions

Section 3745–21–04 requires that compliance be achieved by April 2, 2010, for the new paper coating, metal furniture coating, large appliance coating, cold cleaning, and packaging rotogravure control requirements in 3745–21–09. This allows sources to achieve compliance within one year after the effective date of these new requirements, which is consistent with EPA RACT policy and is therefore approvable.

(5) 3745–21–08—Control of Carbon Monoxide Emissions From Stationary Sources

The requirement that the waste gas stream from a catalyst regeneration process associated with a petroleum cracking system be burned at 1300 degrees Fahrenheit was deleted because a conflicting, but more appropriate, control requirement is in effect for these units in the New Source Performance Standards and the National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries. This section is therefore approvable.

(6) 3745–21–09—Control of VOCs From Stationary Sources

(A) *Applicability*—The applicability provisions in this paragraph are consistent with EPA guidance and are therefore approvable. Section (A)(6), which applies to paragraph (HH) for plastic parts coating (a non-CTG source category until September 2008), correctly specifies the way to establish applicability for major non-CTG sources. Major non-CTG applicability is determined by adding the potential VOC emissions from all non-CTG sources at a facility to the unregulated VOC emissions at a facility. For moderate ozone nonattainment areas, such as the Cleveland-Akron 8-hour ozone nonattainment area that is the subject of this state rule, the non-CTG sources at such a facility are subject to RACT if the combined unregulated CTG and non-CTG potential VOC emissions equal or exceed 100 tons per year.

(F) *Paper Coating*

(F)(2)—This section adds additional control requirements to paper coating lines in the Cleveland-Akron 8-hour ozone nonattainment area.

(F)(2)(a) requires that any paper coating line with potential emissions equal to or greater than 25.0 tons per year of VOC before the application of capture and control devices shall either: (i) Employ a control system in order to reduce total VOC emissions from the paper coating line by at least 90 percent or maintain an outlet concentration of 20 parts per million by volume (ppmv) or (ii) employ low VOC coatings.

(F)(2)(b) contains work practice standards for cleaning materials.

These revisions to paragraph (F) are consistent with those contained in the 2007 CTG for Paper, Film, and Foil Coating and are therefore approvable.

(I) *Metal Furniture Coating*

(I)(4)—This section adds additional control requirements for metal furniture coating lines in the Cleveland-Akron 8-hour ozone nonattainment area.

(I)(4)(a)—This section specifies VOC coating limits for both air-dried and baked metal furniture coating lines, including limits that are expressed in terms of pounds of VOC per gallon of coating solids. These limits allow the use of low VOC coatings or a combination of coatings and add-on control equipment to meet the mass of VOC per volume of coating solids limits. Section 3745–21–9(B)(7) also allows compliance to be achieved with a control system that achieves an overall reduction of 90 percent from the coating line and in which the control device has an efficiency of not less than 90 percent.

(I)(4)(b)—This section exempts the metal furniture coating lines at a facility if the combined emissions from all lines are less than 15 pounds per day of VOC. It also exempts stencil coatings, safety indicating coatings, solid film lubricants, touch-up and repair coatings, and coating application utilizing hand-held aerosol cans.

(I)(4)(c)—This section requires the use of coating application methods with good transfer efficiency such as electrostatic application, flow coating, dip coating, and high volume, low pressure (HVLP) application equipment.

(I)(4)(d) and (e)—These sections specify work practice standards for coating-related activities and cleaning materials.

The metal furniture control requirements in paragraph (I) are consistent with those contained in the 2007 CTG for Metal Furniture Coating and are therefore approvable.

(K) *Large Appliance Coating*

(K)(6)—This section adds additional control requirements to large appliance coating lines in the Cleveland-Akron 8-hour ozone nonattainment area.

(K)(6)(a)—This section specifies VOC coating limits for both air-dried and baked large appliance coating lines. It also contains VOC content limits for both air-dried and baked coatings that have the units of pounds of VOC per gallon of coating solids. These units allow the use of low-VOC coatings or a combination of coatings and add-on control equipment to meet the mass of VOC per volume of coating solids limits. Section 3745–21–9(B)(7) also allows compliance to be achieved with a control system that achieves an overall reduction of 90 percent from the coating line and in which the control device has an efficiency of not less than 90 percent.

(K)(6)(b)—This section exempts the metal furniture coating lines at a facility if the combined emissions from all lines are less than 15 pounds per day of VOC. Paragraph (K)(6)(b) also exempts stencil coatings, safety indicating coatings, solid film lubricants, touch-up and repair coatings, and coating application utilizing hand-held aerosol cans.

(K)(6)(c)—This section requires the use of coating application methods with good transfer efficiency such as electrostatic application, flow coating, dip coating, and HVLP application equipment.

(K)(6)(d) and (e)—These sections specify work practice standards for coating-related activities and cleaning materials.

These control requirements in 3745–21–9(K) are consistent with those contained in the 2007 CTG for Large Appliance Coating and are therefore approvable.

(O) Solvent Metal Cleaning

(O)(2)(e)—This section requires that cold cleaners in the Cleveland-Akron 8-hour ozone nonattainment area use solvent material with a vapor pressure that does not exceed 1.0 mm mercury (Hg). This requirement reduces the volatility and, therefore, the VOC emissions from cold cleaners in the Cleveland-Akron 8-hour ozone nonattainment area and is therefore approvable.

(O)(6) Exemptions

(O)(6)(c)—This section allows cleaners exceeding 1.0 mm Hg to be used to clean cured resin from application equipment at facilities subject to and complying with the requirements of the Reinforced Plastic Composites Production maximum achievable control technology (MACT) (40 CFR part 63, Subpart WWWW). This exemption is approvable because the difficulty of using such low vapor pressure cleaners has been documented and the increase in emissions would be minimal.

(O)(6)(d)—This section allows cleaners exceeding 1.0 mm Hg to be used to clean medical parts subject to regulation by the Food and Drug Administration and also to clean metal parts subject to Federal Aviation Administration and Department of Defense cleaning solvent specifications. However, this exemption is only allowed if the source adequately documents that there is a conflict between these specifications and the 1.0 mm Hg vapor pressure requirement in (O)(2)(e)(i). This exemption is therefore approvable.

(U)(2)(f)—This section allows Ohio to grant less stringent miscellaneous metal coating limits if the limits in (U)(1) are technically or economically infeasible. EPA has objected to previous versions of this paragraph because previous versions allowed less stringent limits to take effect without formal EPA SIP review. This version of paragraph (U)(2)(f) is approvable because it provides that alternate limits take effect only if EPA after suitable opportunity for review finds the alternate limit to represent RACT.

(Y)(4)—Flexible Package Printing

This section adds additional control requirements to packaging rotogravure and flexographic packaging printing lines in the Cleveland-Akron 8-hour ozone nonattainment area.

(Y)(4)(a)—Any packaging rotogravure or flexographic packaging printing line with potential emissions equal to or greater than 25 tons per year of VOC, before control, must comply with the add-on control system requirements in (i) or the low VOC requirements in (ii).

(Y)(4)(a)(i)—Overall control requirements for each subject press range from 65 percent to 80 percent, depending upon the installation date of the press and the first installation date of the add-on control device.

(Y)(4)(ii)—Coatings used in these printing lines must meet a limit of 0.8 pound of VOC per pound of solids applied or 0.16 pound of VOC per pound of coating applied.

(Y)(4)(b)—This section specifies work practice standards for cleaning materials that are applicable to all packaging rotogravure or flexographic packaging printing lines in the Cleveland-Akron 8-hour ozone nonattainment area.

The control requirements in (Y)(4) are consistent with those contained in the 2006 CTG for Flexible Package Printing and are therefore approvable.

(HH)—Surface Coating of Automotive/Transportation and Business Machine Plastic Parts

This section is approvable because the emission limits are consistent with EPA's RACT guidance in the Alternative Control Technology document for this source category. There is a specific VOC content limit for each type of coating, e.g., 4.1 pounds VOC per gallon for high bake colorcoat auto interiors. There is also an equivalent limit in terms of pounds VOC per gallon of solids if a control system is used to achieve compliance, e.g., 9.3 pounds VOC per gallon of solids for high bake colorcoat auto interiors.

(DDD) Gasoline Dispensing Facilities

(4)(e)—This section exempts any gasoline dispensing pump used solely for dispensing gasoline with an ethanol content of 85 percent from the gasoline dispensing station control requirements in (DDD)(1). This exemption is consistent with EPA policy and is therefore approvable.

(4)(f)—This section exempts any gasoline dispensing facility where gasoline is dispensed to a fleet of motor vehicles in which 95 percent or more of the fleet of motor vehicles being fueled with gasoline is equipped with onboard refueling vapor recovery. This exemption is consistent with EPA policy and is therefore approvable.

(7) 3745–21–10—Compliance Test Methods and Procedures

Ohio made no substantive changes to this section. The changes were grammatical and primarily revised the manner in which test methods were referenced. These revisions are approvable.

(8) 3745–21–12—Control of VOC Emissions From Commercial Bakery Oven Facilities

Ohio added a new section (A)(2) *Applicability for the Cleveland-Akron area* to this existing, and EPA approved, rule for the control of bakery oven emissions. This new section expands the applicability to include bakery oven facilities in the Cleveland-Akron moderate ozone nonattainment area. The revised rule satisfies the requirement for RACT for these sources and is therefore approvable.

(9) 3745–21–13—Control of VOC Emissions From Synthetic Organic Chemical Manufacturing Industry Reactors and Distillation Units

Ohio expanded the applicability of this EPA-approved rule to include the Cleveland-Akron 8-hour ozone nonattainment area, which is required by EPA RACT policy and is therefore approvable. Paragraph 3745–21–13(L) has been revised to require that newly subject sources in the Cleveland-Akron area are to notify Ohio EPA that they are subject. The sources are also required to describe their equipment as well as the means of achieving compliance.

(10) 3745–21–14—Control of VOC Emissions From Process Vents in Batch Operations

Ohio expanded the applicability of this EPA-approved rule to include the Cleveland-Akron 8-hour ozone nonattainment area, which is required by EPA RACT policy and is therefore approvable. Paragraph 3745–21–14(K)

has been revised to require that newly subject sources in the Cleveland-Akron area are to notify Ohio EPA that they are subject. They are also required to describe an equipment description, as well as to describe the means of achieving compliance.

(11) 3745–21–15—Control of VOC Emissions From Wood Furniture Manufacturing Operations

Ohio has expanded the applicability of this EPA-approved rule to include sources in the Cleveland-Akron 8-hour ozone nonattainment area. This applicability is required for moderate ozone nonattainment areas by EPA RACT policy and is approvable. Paragraph 3745–21–15(N) has been revised to require that newly subject sources in the Cleveland-Akron area are to notify Ohio EPA that they are subject. They are also required to provide an equipment description, as well as to describe the means of achieving compliance.

(12) 3745–21–16—Control of VOC Emissions From Industrial Wastewater Operations

Ohio has expanded the applicability of this EPA-approved rule to include the Cleveland-Akron 8-hour ozone nonattainment area, which is required by EPA RACT policy and is therefore approvable. Ohio has revised paragraph 3745–21–16(L) to require that newly subject sources in the Cleveland-Akron area are to notify Ohio EPA that they are subject. They are also required to provide an equipment description, as well as to describe the means of achieving compliance.

(13) 3745–21–18—Commercial Motor Vehicle and Mobile Equipment Refinishing Operations

Ohio has expanded the applicability of this EPA-approved rule to include the Cleveland-Akron 8-hour ozone nonattainment area. In addition, Ohio has added the VOC coating limits from EPA's Subpart B—National VOC Emission Standards for Automobile Refinish Coatings (40 CFR part 59). These revisions are approvable.

(14) 3745–21–19—Control of VOC Emissions From Aerospace Manufacturing and Rework Facilities

This new rule applies to aerospace manufacturing and rework facilities in the Cleveland-Akron 8-hour ozone nonattainment area. This rule is consistent with EPA's aerospace CTG and applies to such facilities with potential to emit of 25.0 tons per year for all operations combined where aerospace components and vehicles are cleaned and coated.

Paragraph (D)(1) contains VOC content limits for primers, topcoats, chemical milling maskants, and specialty coatings.

Paragraph (D)(2) allows compliance to be achieved with an emission control system that achieves an overall reduction of 81 percent. If an emission control system includes a thermal or catalytic oxidizer, the control efficiency of the thermal or catalytic oxidizer must be at least 90 percent.

Paragraph (D)(4) specifies the allowable application equipment that can be used and excludes those methods, such as air spray, with low transfer efficiencies. Paragraph (E) specifies VOC requirements for cleaning operations. These include requirements for hand wipe cleaning operations, spray gun cleaning operations, flush cleaning operations, as well as housekeeping measures for cleaning solvents and solvent-laden cleaning materials used in cleaning operations. In addition, Ohio requires compliance either twelve months after the effective date of the rule (8/25/2009) or upon startup for a new facility. This rule also contains the appropriate monitoring requirements for a VOC emission control system, VOC test methods, as well as recordkeeping and reporting requirements. This rule is approvable because it is consistent with EPA's 1997 aerospace CTG.

(15) 3745–21–20—Control of VOC Emissions From Shipbuilding and Ship Repair Operations

This new rule applies to any shipbuilding or ship repair facility that is located in the Cleveland-Akron 8-hour ozone nonattainment area with potential VOC emissions of 25.0 tons per year or greater. The VOC control and related requirements are based upon EPA guidance, especially the Shipbuilding and Ship Repair CTG which is largely based, in turn, on the National Emission Standards for Hazardous Air Pollutants in Subpart II of 40 CFR part 63.

Paragraph 3745–21–19(D)(1) specifies the VOC content limits for a variety of marine coating categories, including a general use coating category and a number of specialty coating categories.

Paragraph 3745–21–19(D)(2) allows compliance to be achieved with an emission control system that achieves emission reductions equivalent to compliance with the coating limits.

In addition, Ohio requires compliance either twelve months after the effective date of the rule (8/25/2009) or upon startup for a new facility. This rule also contains the appropriate monitoring requirements for a VOC emission control system, VOC test methods, as well as recordkeeping and reporting requirements.

This rule is approvable because it is consistent with EPA's 1996 Shipbuilding and Ship Repair CTG.

(16) 3745–21–21—Storage of VOL Liquids in Fixed Roof Tanks and External Floating Roof Tanks

This new rule applies to volatile organic liquid (VOL) storage tanks in the Cleveland-Akron 8-hour ozone nonattainment area if the facility at which the VOL storage tank is located has potential VOC emissions equal to or greater than 100 tons per year from all VOL storage tanks, non-CTG sources, and unregulated emissions from VOC sources. This rule includes control requirements for both fixed roof tanks with internal floating roofs and fixed roof tanks with closed vent systems and control devices. For internal floating roof tanks, the rule specifies three alternative seal systems. For fixed roof tanks with a closed vent system, the rule requires a 95 percent efficient control device or a flare. This rule also includes control requirements for external floating roof tanks, for which the rule requires a closure device consisting of a primary and secondary seal. The rule also includes both recordkeeping and reporting requirements. This rule is consistent with EPA's 1994 alternative control techniques document on VOL Storage in Floating and Fixed Roof Tanks and is therefore approvable.

(17) 3745–21–22—Control of VOC Emissions From Offset Lithographic Printing and Letterpress Printing Facilities

This new rule applies to offset lithographic and letterpress printing facilities in the Cleveland-Akron 8-hour ozone nonattainment area whose actual VOC emissions, before the application of control systems, are equal to or greater than three tons of VOCs per rolling twelve-month period. A heatset web offset lithographic printing press or a heatset web letterpress printing press with potential VOC ink oil emissions from the press dryer that are greater than 25 tons per year before control must maintain the dryer air pressure lower than the pressroom air pressure and operate a control system that achieves 90 percent control (or 95 percent control for a control system installed after the effective date of this rule) or maintain a maximum VOC outlet concentration of 20 ppmv. This rule restricts the VOC content of fountain solutions used by offset

lithographic presses, based on the type of offset lithographic press in use at a facility. Cleaning solutions used on subject lithographic or letterpress printing presses must either be at or below 70 percent by weight VOC or be at or below ten mm Hg at 20 degrees Celsius. This rule also contains the appropriate test methods for determining the VOC concentration of the exhaust stream and the VOC content of the fountain solution and cleaning solution. This rule includes methods to determine the vapor pressure of the cleaning solution. The rule also includes monitoring and recordkeeping requirements to ensure that the control systems are operating properly, to establish whether the VOC content of the cleaning solution and fountain solution are in compliance with the applicable limits, and to establish whether an offset lithographic or letterpress printing facility is subject to one or more of the control requirements of the rule. This rule is approvable because it is consistent with EPA's 2006 CTG for Offset Lithographic Printing and Letterpress Printing.

(18) 3745–21–23—Control of VOC Emissions From Industrial Solvent Cleaning Operations

This new rule applies to facilities with solvent cleaning operations in the Cleveland-Akron 8-hour ozone nonattainment area whose actual VOC emissions from all solvent cleaning operations is equal to or greater than 15 pounds VOC per day. Those source categories with VOC rules that contain their own solvent cleaning control requirements, e.g., aerospace coating and flexible package printing, are exempt from this rule.

This rule contains a general restriction on the VOC content of cleaning materials used of 0.42 pounds VOC per gallon. The rule also contains higher limits for specialty cleaning operations such as cleaning electronic components and medical devices. This rule specifies the use of certain cleaning methods, e.g., wipe cleaning, and prohibits others, e.g., atomizing any solvent unless the emissions are vented to VOC emission control equipment. As an alternative to the VOC content limitations in this rule, a facility may use solvents or solvent solutions which have a VOC composite partial vapor pressure of less than or equal to eight mm of Hg.

The rule includes several exemptions, e.g., graffiti removal and the stripping of cured coatings, for which solvent cleaning restrictions are not feasible. EPA Method 24 is specified for determining the VOC content of solvent material and American Society of Testing Material (ASTM) D2879 is specified for determining the vapor pressure of each component. Recordkeeping requirements include the name and identification of each cleaning material used and the VOC content or the VOC composite vapor pressure of each cleaning material used.

This rule is approvable because it is consistent with EPA RACT guidance, particularly the 2006 CTG for Industrial Cleaning Solvents.

(19) 3745–21–24—Flat Wood Paneling Coatings

This new rule applies to facilities in the Cleveland-Akron 8-hour ozone nonattainment area whose actual VOC emissions from all flat wood paneling coating lines is equal to or greater than 15 pounds VOC per day. This rule limits subject facilities to a VOC content limitation of 2.1 pounds of VOC per gallon of coating or, if an add-on control device is used, a minimum overall control efficiency of 90 percent by weight.

This rule specifies the type of application equipment that can be used in order to eliminate the use of application equipment with low transfer efficiency. In addition, the rule sets work practice standards that minimize VOC emissions from all coatings, thinners, and cleaning materials. These work practice standards require the storage and transfer of all such materials in closed containers or pipes in order to minimize emissions.

This rule is approvable because it is consistent with EPA RACT guidance, particularly the 2006 CTG for Flat Wood Paneling Coatings.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 27, 2009.

Walter W. Kovalick Jr,

Acting Regional Administrator, Region 5.

[FR Doc. E9–10658 Filed 5–6–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R6–ES–2009–0021; MO 92210530083–B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the American Pika as Threatened or Endangered with Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the American pika (*Ochotona princeps*) as threatened or endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific or commercial information indicating that listing of the American pika may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species, and we will issue a 12-month finding to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial data regarding this species. We will make a determination on critical habitat for this species if, and when, we initiate a listing action.

DATES: We made the finding announced in this document on May 7, 2009. To allow us adequate time to conduct the 12–month status review, we request that we receive information on or before July 6, 2009.

ADDRESSES: You may submit information by one of the following methods:

- Federal rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: **FWS–R6–ES–2009–0021**; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the **Information Solicited** section below for more information).

FOR FURTHER INFORMATION CONTACT: Larry Crist, Field Supervisor, Utah Ecological Services Field Office, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119; telephone 801–975–3330, extension 126. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Solicited

When we make a finding that a petition presents substantial information to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that our status review is complete and based on the best available scientific and commercial information, we are soliciting information on the American pika or any subspecies of the American pika. We request data and information from the public, other governmental agencies, tribes, the scientific community, industry, or any other interested parties concerning the status of the American pika or any subspecies of the American pika. We are seeking information regarding the species' or subspecies': (1) Historical and current status and distribution; (2) population size and trend; (3) biology and ecology; (4) taxonomy (especially the genetics of the species and subspecies); and (5) ongoing conservation measures for the animals or their habitat.

We also are seeking information on the following five threat factors used to determine if a species, as defined under the Act, is threatened or endangered under section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*):

(a) The present or threatened destruction, modification, or curtailment of the species' habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence and threats to the species or its habitat.

If we determine that listing the American pika or any subspecies of the American pika under the Act is warranted, we intend to propose critical habitat to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, with regard to areas within the geographical range currently occupied by the species, we also request data and information on what may constitute physical or biological features essential to the conservation of the species, where these features are currently found, and whether any of these features may require special management considerations or protection. In addition, we request data and information regarding whether there are areas outside the geographical area occupied by the species that are essential to the conservation of the species. Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of the Act.

We will base our 12-month finding on a review of the best scientific and commercial information available, including all information we receive during this public comment period. Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that we make determinations as to whether any species is a threatened or endangered species ''solely on the basis of the best scientific and commercial data available.'' At the conclusion of the status review, we will issue a 12–month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section.

If you submit information via *http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov* . Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Information and materials we receive, as well as supporting documentation we used in preparing this 90–day finding, will be available for public inspection on *http://www.regulations.gov*, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Utah Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information contained in the petition and supporting information readily available in our files at the time of the petition review. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) regarding a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that the petition presented substantial information, we are required to promptly commence a review of the status of the species.

We received a petition from the Center for Biological Diversity (Center), dated October 1, 2007, requesting that we list the American pika (*Ochotona princeps*) as threatened or endangered under the Act. Additionally, the Center formally requested that we conduct a status review of each of the 36 recognized subspecies of American pikas to determine if separately listing any subspecies as threatened or endangered may be warranted. Specifically, the Center requested that seven American pika subspecies be listed as endangered: The Ruby Mountains pika (*O. p. nevadensis*), *O. p. tutelata* (no common name), the White Mountains pika (*O. p. sheltoni*), the gray-headed pika (*O. p. schisticeps*), the Taylor pika (*O. p. taylori*), the lava-bed pika (*O. p. goldmani*), and the Bighorn Mountain pika (*O. p. obscura*). The Center requested that the remaining subspecies be listed as threatened.

We acknowledged receipt of the petition in a letter dated October 18, 2007. In that letter we advised the petitioner that we could not address its petition then because existing court orders and settlement agreements for other listing actions required nearly all of our listing funding. We also concluded that emergency listing of the American pika was not warranted.

We received a 60–day notice of intent to sue from the Center dated January 3, 2008. We received a complaint from the Center on August 19, 2008. We submitted a settlement agreement to the Court on February 12, 2009, agreeing to submit a 90-day finding to the **Federal Register** by May 1, 2009, and, if appropriate, to submit a 12-month finding to the **Federal Register** by February 1, 2010.

We received a letter, dated November 3, 2008, from the Center that discussed and transmitted supplemental information found in recent scientific studies that had not been included in the original petition. We considered this additional information when making this finding.

In making this finding, we relied on information provided by the petitioner, as well as information readily available in our files at the time of the petition review. We evaluated the information in accordance with 50 CFR 424.14(b). Our process for making this 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information in the petition contains ''substantial scientific and commercial information.''

Species Information

The American pika is a small montane mammal in the order Lagomorpha (rabbits, hares, and pikas) distributed discontinuously throughout the western United States and Canada (Hall 1981, p. 288; Smith and Weston 1990, p. 2). The species inhabits talus fields fringed by suitable vegetation in alpine or subalpine areas extending south from central British Columbia and Alberta into the Rocky Mountains of New Mexico and the Sierra Nevada of California (Hall 1981, p. 288; Smith and Weston 1990, pp. 2–3). A generalist herbivore that does not hibernate, the species relies on harvested stockpiles of summer vegetation stored within talus openings to persist throughout the winter months (Smith and Weston 1990, p. 3). Alpine meadows that provide forage are important to pika survival.

Like other pika species, the American pika has an egg-shaped body with short legs, moderately large ears, and no visible tail (Smith and Weston 1990, p. 2). Fur color varies among subspecies and across seasons, typically with shorter, brownish fur in summer and longer, grayish fur in winter (Smith and Weston 1990, p. 3). The species is an intermediately sized pika, with adult body lengths ranging from 162 to 216 millimeters (6.3 to 8.5 inches) and mean body mass ranging from 121 to 176 grams (4.3 to 6.2 ounces) (Hall 1981, p. 287; Smith and Weston 1990, p. 2).

American pikas forage by feeding and haying (Huntly *et al.* 1986, p. 139; Smith and Weston 1990, p. 4; Dearing 1997b, p. 775). Feeding (the immediate consumption of vegetation) occurs year-round; haying (the storage of vegetation for later consumption) occurs only in summer months after the breeding season (Smith and Weston 1990, p. 4). The primary purpose of haypiles is overwintering sustenance, and individuals harvest more vegetation than necessary for these haypiles (Dearing 1997a, p. 1156). The species takes advantage of plant chemistry by selecting low-phenolic (containing phenol, an organic compound that in high amounts is toxic to pika) vegetation for feeding, while at the same time selecting high-phenolic, but slow-decaying, vegetation for haying (Dearing 1997b, pp. 774, 776, 779). By the time pikas consume the stored vegetation, plant toxins have decayed to palatable levels (Dearing 1997b, pp. 774, 779).

Thermoregulation is an important aspect of American pika physiology, because individuals have a high normal body temperature of approximately 40 °Celsius (C) (104 °Fahrenheit (F)) (MacArthur and Wang 1973, p. 11; Smith and Weston 1990, p. 3), and a relatively low lethal maximum body temperature threshold of approximately 43 °C (109.4 °F) (Smith and Weston 1990, p. 3). Most thermoregulation of individuals is behavioral, not physiological (Smith 1974b, p. 1372; Smith and Weston 1990, p. 3). In warmer environments, such as during midday sun and at lower elevation limits, pikas typically become inactive and withdraw into cooler talus openings (Smith 1974b, p. 1372; Smith and Weston 1990, p. 3).

Temperature restrictions influence the species' distribution because hyperthermia (heat stroke) or death can occur after brief exposures to ambient temperatures greater than 25.5 °C (77.9 °F) (Smith 1974b, p. 1372). Therefore, population range of the American pika progressively increases in elevation in the southern extents of the distribution (Smith and Weston 1990, p. 2). In the northern part of its distribution (southwestern Canada), populations occur from sea level to 3,000 meters (m) (9,842 feet (ft)), but in the southern extent (New Mexico, Nevada, and southern California) populations rarely exist below 2,500 m (8,202 ft) (Smith and Weston 1990, p. 2). Fossil records indicate that the species inhabited sites farther south and at lower elevations during the late Wisconsinan and early Holocene periods (approximately 40,000 to 7,500 years ago), but warming and drying climatic trends in the middle Holocene period (approximately 7,500 to 4,500 years ago) forced populations into the current distribution of montane

refugia (Smith and Weston 1990, p. 2; Grayson 2005, p. 2103).

Within this geographic distribution, the American pika has an obligate association with talus habitat because it uses rock piles for den sites, food storage, and nesting (Smith and Weston 1990, p. 4; Beever *et al.* 2003, p. 39). Talus habitats also provide microclimate conditions suitable for pika survival by creating cooler, moist refugia in summer months (Beever 2002, p. 27) and insulating individuals in the colder winter months (Smith 1978, p. 137). Hafner (1994, p. 380) suggested that neither heat nor aridity directly caused local population extirpations during historical warming periods, but rather it was the upward retreat of alpine permafrost that allowed soil and vegetation to fill talus habitat openings.

Within these habitats, individual pikas are territorial, maintaining a defended territory of 410 to 709 square meters (m2) (4,413 to 7,631 square feet (ft2)), but fully utilizing overlapping home ranges of 861 to 2,182 m2 (9,268 to 23,486 ft2) (various studies cited in Smith and Weston 1990, p. 5). Individuals mark their territories with scent and defend the territories through aggressive fights and chases (Smith and Weston 1990, p. 5). Adults with adjacent territories form facultatively monogamous mating pairs (males are sexually monogamous but make little investment in rearing offspring) (Smith and Weston 1990, pp. 5–6). Females give birth to average litter sizes of 2.34 to 3.68 twice a year (Smith and Weston 1990, p. 4). However, fewer than 10 percent of weaned juveniles are from the second litter, because mothers only wean the second litter if the first litter is lost (various studies cited in Smith and Weston 1990, p. 4).

Adult pikas can be territorially aggressive to juveniles, and parents can become aggressive to their own offspring within 3 to 4 weeks after birth (Smith and Weston 1990, p. 4). Therefore, juveniles need to establish their own territories and create haypiles before the winter snowpack if they are to survive (Smith and Weston 1990, p. 6; Peacock 1997, p. 348). However, establishing a territory and building a haypile does not ensure survival. Among all residents (adults and overwintering juveniles), yearly average mortality in pika populations is between 37 and 53 percent; few pikas live to be 4 years of age (Peacock 1997, p. 346).

Historically, researchers hypothesized that American pika juveniles are philopatric, dispersing only if no territory is available in their natal local population site (various studies cited in Smith and Weston 1990, p. 6). However, using indirect genetic methods, Peacock (1997, pp. 346–348) demonstrated that juvenile emigration to other population sites occurred over both long (2 kilometers (km); (1.24 miles (mi))) and short distances, and acted to support population stability by replacing deceased adults. Peacock (1997, pp. 347–348) also concluded that territory availability is a key factor for dispersal patterns, and that local pika populations lacked clusters of highly related individuals.

Dispersal by American pikas is governed by physical limitations. Smith (1974a, p. 1116) suggested that it was difficult for juveniles to disperse over distances greater than 300 m (10 ft) in low-elevation (2,500-m (8,200-ft)) populations. Lower elevations are warmer in summer and represent the lower edge of the elevational range of the species (Smith 1974a, p. 1112). Research at other locations has documented dispersal distances of 3 km (1.9 mi) (Hafner and Sullivan 1995, p. 312). The maximum individual dispersal distance is probably between 10 and 20 km (6.2 and 12.4 mi) (Hafner and Sullivan 1995, p. 312). This conclusion is based on genetic (Hafner and Sullivan 1995, pp. 302–321) and biogeographical (Hafner 1994, pp. 375–382) analysis. Genetic analysis revealed that pika metapopulations are separated by somewhere between 10 and 100 km (6.2 to 62 mi) (Hafner and Sullivan 1995, p. 312). Biogeographical analysis demonstrated that, during the warmer altithermal period of the mid-Holocene (about 6,500 years ago), the species retreated to sites offering thermal refugia, and that the species subsequently expanded its range somewhat as climatic conditions cooled (Hafner 1994, p. 381). However, the species has been unable to recolonize vacant habitat patches greater than 20 km (12.4 mi) from refugia sites and has recolonized less than 7.8 percent of available patches within 20 km (12.4 mi) of those same refugia sites (Hafner 1994, p. 381). Evidence indicates that the lack of recolonization is due to vegetation filling in talus areas (removing pika habitat) or habitat becoming too dry due to environmental changes resulting from historical changes in climate (Hafner 1994, p. 381).

Climatic conditions have shaped the current distribution of the America pika over the course of history, creating geographically isolated populations on montane refugia (Hafner 1994, p. 375; Hafner and Sullivan 1995, p. 302; Grayson 2005, p. 2103). Information presented in the petition indicates that this geographic isolation has resulted in 36 recognized subspecies of the American pika (Hall 1981, p. 287–292). Of these, 31 subspecies occur in the United States over a 10-State region: New Mexico, Colorado, Wyoming, Montana, Utah, Idaho, Nevada, California, Oregon, and Washington (Hall 1981, p. 288). The other five subspecies occur in Alberta and British Columbia, Canada. Recent genetic work has shown that four major genetic units of the American pika exist in the northern Rocky Mountains, Sierra Nevada, southern Rocky Mountains, and Cascade Range (Hafner and Sullivan 1995, p. 308). We will address American pika subspecies designations in the United States and Canada more thoroughly in our status review.

The petitioner requested that 7 of the 36 petitioned American pika subspecies be listed as endangered and that the other 29 subspecies be listed as threatened. Subspecies are listable entities under the Act. We will verify taxonomic classification of pika subspecies and assess whether any or all subspecies are warranted for listing under the Act. If any subspecies are found to be warranted, we will determine whether they are individually warranted for listing as threatened or endangered when we prepare a proposed listing rule.

Threat Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR 424) set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

Under the Act, a threatened species is defined as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. An endangered species is defined as a species that is in danger of extinction throughout all or a significant portion of its range. We evaluated each of the five listing factors to determine whether the level of threat identified by information in the petition or in our files was

substantial and indicated that listing the American pika as threatened or endangered may be warranted. Our evaluation is presented below.

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The petitioner states that threats causing the present or threatened destruction, modification, or curtailment of American pika habitat or range include global climate change, livestock grazing, invasive plant species, and fire suppression.

Global Climate Change

The petitioner states that global climate change is the gravest threat to the long-term survival of the American pika. They assert that predicted global climate change, both thermal and precipitation regime modifications, can directly cause thermal stress and mortality to individuals, contribute to the loss of montane habitat, and synergistically enhance negative ecological and anthropogenic effects. The petitioner provides an overview of global climate change research, including past, present, and predicted future climatic conditions. After presenting an overview of the scientific basis of global climate change, the petitioner discusses observed impacts to the American pika from historic and recent global climate change. Lastly, the petitioner introduces future projected climatic conditions in the American pika's range and hypothesizes how these conditions may affect the species.

The petitioner asserts that the publications of the Intergovernmental Panel on Climate Change (IPCC), specifically the four-volume *IPCC Fourth Assessment Report: Climate Change 2007*, are the best available science on global climate change, and we concur. The IPCC is a scientific intergovernmental body established by the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP) ''to assess scientific information related to climate change, to evaluate the environmental and socio-economic consequences of climate change, and to formulate realistic response strategies'' (IPCC 2007, p. iii). The *IPCC Fourth Assessment Report: Climate Change 2007* included the findings of three working groups composed of more than 500 lead authors and 2,000 expert reviewers and provided objective scientific guidance to policymakers on the topic of climate change (IPCC 2007, p. iii). We concur that the IPCC information on global climate change is reliable.

The IPCC concluded that global climate change is occurring and is caused by human activities, such as the burning of fossil fuels and clearing of forests (Forster *et al.* 2007, pp. 135-136). Historical records analyzed by the IPCC demonstrated that global surface temperatures have risen (with regional variations) during the past 157 years, most strongly after the 1970s (Trenberth *et al.* 2007, p. 252). Globally, average surface temperatures have risen by 0.074 °C plus or minus 0.018 °C (0.13 °F plus or minus 0.03 °F) per decade during the past century (1906 through 2005) and by 0.177 °C plus or minus 0.052 °C (0.32 °F plus or minus 0.09 °F) per decade during the past quarter-century (1981 through 2005) (Trenberth *et al.* 2007, p. 253).

Changes in the amount, intensity, frequency, and type of precipitation also have been summarized by the IPCC (Trenberth *et al.* 2007, p. 262). The warming of global temperatures has increased the probability of precipitation falling as rain rather than snow, especially in near-freezing situations, such as the beginning and end of the snow season (Trenberth *et al.* 2007, p. 263). In many Northern Hemisphere regions, this has caused a reduced snowpack, which can greatly alter water resources throughout the year (Trenberth *et al.* 2007, p. 263). As a result of thermal and precipitation regime changes, the IPCC expects the snowline (the lower elevation of year-round snow) in mountainous regions to rise 150 m (492 ft) for every 1 °C (1.8 °F) increase in temperature (Christenson *et al.* 2007, p. 886). These predictions are consistent with regional predictions for the Sierra Nevada in California that calculate that year-round snow will be virtually absent below 1,000 m (3,280 ft) under a higher emissions scenario (Cayan *et al.* 2006, p. 32).

The petitioner presents research demonstrating that climate change has occurred within the range of the American pika. In the 20th century, regions in which pikas occur (the Pacific Northwest and western United States) have seen annual average temperature increases of 0.6 to 1.7 °C (1.1 to 3.1 °F) and 1.1 to 2.8 °C (2.0 to 5.0 °F), respectively (Parson *et al.* 2000, p. 248; Smith *et al.* 2000, p. 220). This warming corresponds with a reduced mountain snowpack (Mote *et al.* 2005 and Regonda *et al.* 2005 cited in Vicuna and Dracup 2007, p. 330; Trenberth *et al.* 2007, p. 310) and a trend toward earlier snowmelt in western North America (Stewart *et al.* 2004, pp. 217, 219, 223).

The petitioner presents research forecasting future climatic conditions both globally and for the range of the American pika. Predicted global average surface warming during the 21st century is between 1.1 and 6.4 °C (2.0 and 11.5 °F), depending on the emissions scenario analyzed (Solomon *et al.* 2007, p. 70, Table TS. 6). On a regional scale, North America is likely to exceed the global mean warming in most areas (Christenson *et al.* 2007, p. 850). Specifically, warming is likely to be largest in winter in northern regions of North America, with minimum winter temperatures likely rising more than the global average (Christenson *et al.* 2007, p. 850). Across 21 global temperature models using a mid-level emissions scenario, the IPCC predicted that the average annual temperature in western North America (covering the entire range of the American pika) will increase between 2.1 and 5.7 °C (median 3.4 °C) (3.8 and 10.3 °F (median 6.1 °F)) during the 21st century (Christenson *et al.* 2007, p. 856). Similarly, Smith *et al.* (2000, p. 220) reported a projected warming of 4.4 to 6.1 °C (7.9 to 11°F) in the western United States by 2090.

Literature presented by the petitioner demonstrates that temperature increases also are expected to affect precipitation, snowpack, and snowmelt in the range of the American pika. The IPCC concluded that snow-season length and depth of snowpack are very likely to decrease in most of North America (Christenson *et al.* 2007, p. 850). Leung *et al.* (2004, p. 75) concluded that future warming increases in the western United States will cause increased rainfall and decreased snowfall, resulting in reduced snow accumulation or earlier snowmelt. Similarly, Rauscher *et al.* (2008, p. 4) concluded that increased temperatures in the late 21st century could cause early-season snowmelt-driven runoff to occur as much as 2 months earlier than presently in the western United States.

The petitioner asserts that climate variables are of immediate concern to the American pika because past and present trends in climate have important physiological, ecological, and demographic consequences. They state that temperature is a variable of primary importance to the species because it inhibits local population persistence at warmer sites, consequently determining the species' distribution. They also discuss the ecological and physiological roles of precipitation, particularly snow, to the American pika and its habitat. Lastly, they discuss how climate regulates the factors maintaining the American pika's alpine meadow and talus habitat.

The petitioner presents research concluding that the distribution of American pikas from prehistoric times

to the present is a result of changing climatic conditions. Hafner (1994, p. 375) concluded that, in the southern Rocky Mountains, occurrence of pika populations is closely tied to past and present distribution of alpine permafrost conditions, with altithermal warming accounting for 66.7 percent of all post-Wisconsinan period population extirpations. Similar biogeographic analysis demonstrated that climate change and subsequent impacts on vegetation determined the distribution of the American pika in the Great Basin (Grayson 2005, p. 2103). Grayson (2005, p. 2107) describes the history of American pikas in the Great Basin as ''a relentless loss of lower elevation populations, creating the extremely patchy, and generally high elevation, distribution seen today.'' The present distribution of the American pika in the Great Basin is approximately 783 m (2,568 ft) higher in elevation than the distribution during the late Wisconsinan and early Holocene periods (Grayson 2005, p. 2103), demonstrating an elevational retreat tracking colder microclimates. While these trends, acting over long timescales, demonstrate the role of historical climate conditions in shaping pika distribution, the petitioner emphasizes the current threat to the American pika by citing more recent, rapid-range contractions.

To demonstrate the immediate vulnerability of pika populations to human-induced climate change, the petitioner presents research documenting 20th century range contractions in both the Great Basin and the Sierra Nevada. By conducting extensive surveys between 1994 and 1999 at historic sites known to have harbored pikas, a study of Great Basin pika populations found that 7 of 25 populations appeared to have experienced recent extirpations (Beever *et al.* 2003, p. 37). Elevation was an important parameter in models predicting the persistence of pika populations, suggesting that thermal effects have influenced recent persistence trajectories of Great Basin populations of pikas (Beever *et al.* 2003, pp. 43, 46, 47). However, additional factors affect persistence, such as proximity to roads, habitat size, and livestock grazing, which indicate that anthropogenic effects may be working in concert with environmental conditions to produce the apparent extirpations (Beever *et al.* 2003, p. 46). In 2004, the number of apparent population extirpations in the study area had increased to nine (Krajick 2004, p. 1602).

Moritz *et al.* (2008, pp. 261–264) examined long-term responses of small mammal communities to recent climate change in the Sierra Nevada. Because the study area has been protected since 1890, responses to climate change were not confounded by land-use effects (Moritz *et al.* 2008, p. 261). They documented range contractions in high-elevation species and upward range expansion in low-elevation species (Moritz *et al.* 2008, p. 262). Specifically, the lower range limit of the American pika shifted 153 m (502 ft) upslope (Moritz *et al.* 2008, p. 263). Based on the Great Basin and Sierra Nevada studies, the petitioner states that temperatures provide the most likely explanation for observed range shifts in American pika populations.

The petitioner acknowledges the work of Beever (2002, pp. 23–29) to provide further insights into pika population persistence and climate conditions in lower elevation regions. American pikas were detected at historical and new locations at Craters of the Moon and Lava Beds National Monuments (Idaho and California, respectively), a notable finding because the climate at these sites is an estimated 18 to 24 percent drier and 5 to 11 percent warmer during the hottest months of the year than experienced at the interior Great Basin locations where pikas have been extirpated (Beever 2002, pp. 26–27). Three habitat characteristics seemed important to these populations: large, contiguous areas of rocky, volcanic habitat; average or greater than average amounts of accessible vegetation; and microtopography with rocks large enough for subsurface movement and tunneling by pikas (Beever 2002, p. 28). Beever concluded that volcanic sites offered thermal refugia from heat stress but noted that this did not completely explain pika persistence (Beever 2002, p. 27). He proposed that the lack of human land-use impacts also may be important (Beever 2002, p. 27).

The petitioner cites a study of the congeneric collared pika (*Ochotona collaris*), located in northwest Canada and eastern Alaska, to demonstrate that precipitation also may affect population persistence. During this study, Morrison and Hik (2008, pp. 104–105, 110) documented a population collapse of 90 percent from 1998 through 2000. They hypothesized that the high mortality was related to warmer winters that resulted in low snow accumulation (and, therefore, poor insulation value), increased frequency of freeze-thaw events, icing following winter rains, and late winter snowfalls that delay the start of the growing season (Morrison and Hik 2008, p. 110). The petitioner stresses Morrison and Hik's (2008, p. 110) warning that this species will experience future declines as a result of similar adverse weather conditions if predicted future climatic conditions are realized.

In addition to studies documenting past impacts to the American pika, the petitioner presents investigations into future species' trends. McDonald and Brown (1992, pp. 409–415) applied the theory of island biogeography to isolated mountaintop ranges in the Great Basin of western North America and modeled potential extinctions brought on by changing climatic conditions. They predicted that the American pika would be locally extirpated from five of six mountain ranges that it inhabited in the Great Basin in 1992, assuming a less than 3 °C (5.4 °F) increase in temperature (McDonald and Brown 1992, p.411 Table 1). Broader ecological results of the model indicate that mountain ranges would lose 35 to 96 percent of their boreal habitat and 9 to 62 percent of their current boreal mammal species, depending on the mountain range in question (McDonald and Brown 1992, p. 413). Because a 3 °C (5.4 °F) increase is within the IPCC's predicted temperature increases (see above), the petitioner states that these results indicate the potential for catastrophic declines in the range of the American pika in the foreseeable future.

Loarie (2008, pp. 1-3) predicted impacts of climate change on the distribution of the American pika. Under a relatively low emissions scenario, habitat suitability for the pika would be significantly reduced throughout its range by the year 2100, with suitable habitat occurring only in the southern Rocky Mountains, Yellowstone National Park region, Cascade Mountains, Olympic Mountains, Canadian Rockies, and a small portion of the Sierra Nevada (Loarie 2008, Figure B). The petitioner cites these modeling efforts to demonstrate that the range of American pika habitat is likely to diminish greatly in the future.

Based on these range contractions, the petitioner concludes that projected changes in climate conditions will affect the species because of direct effects from thermal stress and indirect effects from changes in habitat and alpine ecology.

The petitioner contends that temperature increases in the western United States are already exceeding the thermal limits of the American pika in lower elevation populations and that future temperature increases will commit pika populations to an increased rate of extinction. They propose four ways by which thermal

stress will impact the American pika. First, increasing summer temperatures may make talus habitat too hot for species' survival. Because American pikas have an upper lethal body temperature that is just 3 °C (5.4 °F) above normal body temperature, habitat refugia play an important role in their individual thermoregulation (Smith and Weston 1990, p. 3). The petitioner reasons that increasing temperatures will eliminate cool, moist refugia in talus habitat, causing individuals to be unable to thermoregulate in summer months. They state that predictions for higher average summer temperatures combined with more frequent and longer heat waves will place pikas under increased stress during the summer months, potentially causing mortality (Christensen *et al.* 2007, pp. 850, 891). Secondly, they state that, even if the talus refugia remain cool, ambient external temperatures may reduce an individual's ability to forage during midday. They assert that if pika individuals cannot adequately forage in the summer months, they may not have the required body mass or haypile volume needed for winter survival.

The petitioner argues that warmer summer temperatures also will affect the ability of juvenile pikas to successfully disperse and colonize new areas; two previous studies have concluded that warmer temperatures restricted juvenile dispersal (Smith 1974a, p. 1112; 1978, p. 137). They conclude that more adverse climatic conditions may decrease the distance juveniles are able to travel in search of new habitat patches. They claim the species' range is likely to decline if juveniles are unable to colonize new patches or immigrate to other populations. They also conclude that juvenile pikas may not be able to collect adequate haypiles because higher temperatures lead to earlier desiccation of vegetation. Therefore, even if juveniles create new home territories, they may not be able to survive the winter months.

Lastly, the petitioner asserts that the American pika may be sensitive to changing winter conditions. The petitioner cites studies indicating that earlier snowmelt (Smith 1978, p. 133) and loss of snow cover, which provides insulation during cold weather (Morrison and Hik 2008, p. 110), may be associated with high mortality and subsequent population declines. Because the decline in snowpack and earlier montane snowmelt are predicted to occur within the next century (see above), winter survival of the American pika may consequently decrease.

The petitioner contends that indirect effects of climate change, such as vegetative community change and habitat alteration, will affect the American pika. Hotter and potentially drier conditions projected in montane regions could alter the plant communities to species less favorable for pika. One of the most important traits of the local plant community is forage quality and quantity. The petitioner argues that community characteristics less favorable to pika foraging conditions include an abundance of plant species less suitable to pika nutritional needs; an earlier onset of plant desiccation; and less water content, biomass, or compatible phenology in surrounding vegetation. The petitioner states that global climate change has the potential to cause any or all of these community changes.

The petitioner states that a second possible community change is the loss of alpine meadow habitat caused by forest encroachment. They cite studies demonstrating the invasion of forests into alpine meadow habitat across various mountain ranges during the 20th century (Dyer and Moffett 1999, p. 444; Fagre *et al.* 2003, p. 263), and studies indicating that rising temperatures are correlated with this trend (Grabherr *et al.* 1994, p. 448; Walther *et al.* 2005, p. 541). The petitioner concludes that a shift from alpine meadow habitat to forest communities would cause pika forage plants to decline, eventually eliminating suitable pika habitat. Additionally, as alpine meadow habitat is replaced by forest stands, pika habitat will become increasingly smaller and more isolated. Demonstrating the consequences of shrinking alpine habitat, McDonald and Brown (1992, pp. 409–415) predicted that small-mammal extirpations, including the American pika, will be common across mountain ranges in the Great Basin as alpine habitats retreat to higher elevations or disappear in response to global climate change.

In addition to alpine meadows, the petitioner states that global climate change may affect the formation and maintenance of talus habitat. Alpine permafrost conditions provide the necessary freeze–thaw events to form talus habitat while also preventing vegetation encroachment in talus through extremely cold climatic events (Hafner 1994, p. 376). The petitioner asserts that increasing winter temperatures will cause the decline of these conditions and the corresponding decrease in talus habitat. Increasing temperatures will no longer prevent vegetation encroachment, thus filling talus vacancies and making habitat unsuitable for pikas (Hafner 1994, p. 380).

Summary of Global Climate Change

Based on the results of these empirical studies, along with predictions of declining climatic habitat suitability (Loarie 2008, pp. 1–4), we find that the range of the American pika and the habitat within the range are likely to decrease as surface temperatures increase. Furthermore, the results of studies in the 20th century correspond with results of biogeographic research into historical range shifts by the American pika in response to historical climate change (Hafner 1994, p. 381; Grayson 2005, pp. 2108–2109). Therefore, we find that the petitioner presents substantial information to indicate that listing the American pika may be warranted as a threatened or endangered species due to the present or threatened destruction, modification, or curtailment of its range due to impacts attributed to climate change.

Livestock Grazing

The petitioner states that livestock grazing may negatively affect the American pika by altering the native vegetation community surrounding talus fields. Specifically, the petitioner suggests that livestock promote the invasion of exotic plants and that livestock browsing or trampling of native food sources may limit the food available to American pika. To demonstrate this relationship, they cite research investigating apparent extirpations of the American pika in the Great Basin (Beever *et al.* 2003, pp. 37-54) and the Ili pika (*Ochotona iliensis*) in the Tian Shan Mountains of China (Wei-Dong and Smith 2005, pp. 30–34). However, the information cited in the petition provided little to support the claim that livestock promote invasion of exotic plants.

Recent research of American pika local populations in the Great Basin demonstrated a negative correlation between livestock-grazed areas and population persistence (Beever *et al.* 2003, pp. 41–45). In this study, six apparent extirpations (out of seven) occurred on grazed lands (out of 14 grazed sites) (Beever *et al.* 2003, p. 54). These six extirpations represent 24 percent of the 25 populations reported earlier in the 20th century for this area (Beever *et al.* 2003, p. 37).

Similar results were presented from a census of sites known to harbor the Ili pika in the Xinjiang Uygur Autonomous Region in China (Wei-Dong and Smith 2005, p. 30). The authors reported being unable to find any Ili pika individuals

at 14 sites and finding fresh signs of Ili pika at only 6 sites, despite investigating areas where Ili pika were observed 10 years earlier (Wei-Dong and Smith 2005, p. 32). The authors hypothesized that livestock grazing, which had just recently begun occurring above 3,000 m (9,843 ft), could have a negative effect on these populations (Wei-Dong and Smith 2005, p. 33).

The petitioner cites the California Wildlife Action Plan (Bunn *et al.* 2006, p. 4) and the New Mexico Wildlife Conservation Strategy (New Mexico Department of Game and Fish 2006, p. 183) to demonstrate that excessive grazing is a recognized threat to alpine meadows across the range of the American pika. Pika habitat evolved free of intense grazing pressure, but this habitat has now become attractive grazing sites for livestock, resulting in losses of native vegetation and meadow degradation (Bunn *et al.* 2006, p. 296).

The petitioner presents general information demonstrating the threat of excessive grazing to American pika habitat, and presents the possibility that grazing activities led to localized population extirpations or declines in both the American pika and China's Ili pika. However, the results from the American pika (Beever *et al.* 2003, pp. 37–54) and Ili pika (Wei-Dong and Smith 2005, pp. 30–34) research presented grazing as only one of many possible causes of extirpations.

Beever *et al.* (2003, p. 45) acknowledged that results describing the effects of grazing are mixed and should be cautiously interpreted, because other variables also show strong negative correlation to American pika persistence. The results indicate the possibility that grazing effects to pikas are correlated with other variables, such as elevation or talus habitat area (Beever *et al.* 2003, pp. 45, 49).

The results of observational surveys for Ili pikas (Wei-Dong and Smith 2005, pp. 30–34) do not provide any direct linkage between livestock grazing and pika extirpations, because no quantitative data were collected to describe grazing pressure. The conclusion that grazing may have a negative influence on Ili pika populations was one of three hypotheses presented in the discussion. While this hypothesis is valid, it should not be confused with direct scientific evidence.

Summary of Livestock Grazing

It is possible that livestock grazing could reduce vegetation close to talus habitat and subsequently cause pikas to forage farther from the protective cover of talus, thus increasing energy demands and risk of predation on pikas (Beever *et al.* 2003, p. 49). However, it also is possible that livestock do not affect the generalist diet of pikas, because livestock avoid rocky talus slopes, create minimal grazing pressure on pika-foraged areas, or prefer specific forage (graminoids) (Beever *et al.* 2003, p. 50). Similarly, while it is possible that excessive livestock grazing leads to local pika population extirpations through increased individual mortality from the above stresses, it also is possible that other factors are actually causing the extirpations, such as disease, climate, or stochastic events. We will further investigate whether livestock grazing is a potential threat when we address the threats to the American pika in our 12–month status review.

Invasive Plants and Fire Suppression

The petitioner states that the invasion of exotic plant species may alter alpine meadow foraging habitat to a community less favorable for the American pika. They state that this threat is increasing and list many possible vectors for invasive species. Additionally, they propose that fire suppression may contribute to the encroachment of trees into alpine and subalpine meadows, also altering vegetation communities to a less favorable state.

While the petitioner cites literature demonstrating that invasive plants are infiltrating alpine areas, these studies do not demonstrate a threat to habitat of the American pika. McDougall *et al.* (2005, p. 159) revealed that invasive plant species are colonizing treeless areas, but do so in the Australian Alps, far from American pika habitat. While these results can be interpreted as a harbinger of possible threats to pikas in North America, research has determined that alpine and wilderness areas are still relatively unaffected by invasive plants in the Northwest mountain ecoregions of the United States (Parks *et al.* 2005, p. 137).

When we reviewed the State Wildlife Action Plans (WAPs) in the range of the American pika we found that invasive plants are listed as threats in some pika habitat, but not in its primary alpine habitat. New Mexico's WAP acknowledged that wet meadow habitat can be manipulated to replace native vegetation with pasture species (New Mexico Department of Game and Fish 2006, p. 183). California's WAP (Bunn *et al.* 2006, p. 272) listed invasive plants as a threat to the Modoc plateau (for example, cheatgrass (*Bromus tectorum*) and pepper weed (*Lepidium virginicum*)), but stated that subalpine and alpine plant communities in the Sierra Nevada and Cascades are relatively intact, with few invasive plants (Schwartz *et al.* 1996 cited in Bunn *et al.* 2006, p. 299). Similarly, Nevada's WAP (Nevada Department of Wildlife 2005, p. 159) did not list invasive plants as a threat to alpine and tundra habitats. Utah's WAP (Sutter *et al.* 2005, pp. 5–7, 8–7) listed invasive plants (cheatgrass and noxious weeds) as a threat to the American pika's secondary habitat of mountain shrub. Alpine habitats that are the primary habitat for the American pika are not identified as a key habitat by the State of Utah and, therefore, threats to this habitat are not listed in the Utah WAP (Sutter *et al.* 2005, pp. 5–8).

Human fire suppression is identified by the petitioner as a potential cause of forest encroachment up elevational gradients and into mountain meadows, resulting in reduced foraging areas for the pika. However, much of the available scientific literature indicates that climate change is a more likely cause of this forest encroachment (Dyer and Moffett 1999, pp. 444, 452). Similarly, Fagre *et al.* (2003, p. 263) concluded that precipitation (snow depth) is a critical variable regulating conifer expansion.

Summary of Invasive Plants and Fire Suppression

Invasions of nonnative plants could change the composition of meadows used for foraging by the American pika. However, invasions by exotic plant species have not been shown to constitute a major threat to alpine systems, and the petitioner provided no evidence demonstrating that the American pika would be harmed by a change in diet to these nonnative plants. Forest encroachment is a credible threat to alpine meadow habitat. However, climate change has been indicated as a more likely rangewide cause of forest encroachment than fire suppression (Dyer and Moffett 1999, p. 452). We will further investigate whether invasive plants and fire suppression are potential threats to the present or threatened destruction, modification, or curtailment of pika habitat or range when we address the threats to the American pika in our 12-month status review.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petitioner did not present information, nor do we have information in our files, suggesting that overexploitation is affecting American pika populations. However, we will

further investigate whether overutilization for commercial, recreational, scientific, or educational purposes is a potential threat when we address the threats to the American pika in our 12-month status review.

C. Disease or Predation

The petitioner states that changing climatic conditions may make the American pika more vulnerable to both predators and disease, because evolutionary adaptations and constraints will no longer safeguard individuals. They state that American pika individuals may be more susceptible to winter and spring predation from weasels (*Mustela* spp.) in talus habitat by increasing their accessibility if there is decreased snowpack and earlier snowmelt. They additionally present the view that forest encroachment into meadow foraging habitat may decrease the pika's ability to visibly detect predators. Finally, they assert that disease prevalence in pikas and their forage base may increase as temperature and humidity constraints allow disease pathogens to expand spatially and temporally.

The American pika is known to be a prey species in the alpine ecosystem. Potential predators of the pika include coyotes (*Canis latrans*), longtail weasels (*Mustela frenata*), shorttail weasels (*M. erminea*), and pine martens (*Martes americana*) (Smith and Weston 1990, p. 5). Weasels have been identified as the most effective pika predators because of their ability to hunt within talus interstices (Ivins and Smith 1983, p. 279).

Changes to climate and habitat could possibly alter predator–prey interactions and increase the success of predators. For example, the petitioner asserts that decreased snowpack and earlier snowmelt could increase accessibility of talus slopes by weasels, thus increasing pika mortality. However, this assertion is speculative and no information was presented to indicate that changes in predation rates may adversely affect pika population persistence.

Changes to climate also may increase disease occurrence, prevalence, and severity to both the American pika and its forage base. Changing climatic conditions could affect host-pathogen relationships by increasing pathogen vital rates (development, transmission, or reproduction), decreasing life cycle limitations typically occurring in winter, and altering host susceptibility (Harvell *et al.* 2002, p. 2158). For plants, decreases in pathogen winter mortality would likely increase disease severity because pathogens usually die in winter (Harvell *et al.* 2002, p. 2159). For wildlife, climate change is most likely to allow disease vectors to alter ranges and life history, possibly increasing the occurrence and severity of vector-borne diseases (Harvell *et al.* 2002, p. 2160). Elevational and latitudinal changes for wildlife and plant diseases may introduce more severe or new diseases to pikas and their forage base. However, the American pika is not known to be at risk from any specific disease threats at this time.

Summary of Disease and Predation

Little empirical data exists to demonstrate that increased predation would greatly alter population persistence, and the species is not known to be at risk from any specific disease or pathogen. However, we will further investigate whether disease and predation are potential threats when we address the threats to the American pika in our 12–month status review.

D. The Inadequacy of Existing Regulatory Mechanisms

The petitioner states that existing regulatory mechanisms are inadequate to prevent the decline of the American pika because global and national regulations are failing to reduce carbon emissions to levels that will slow global surface warming. They further state that no legal mechanisms currently exist to regulate greenhouse gases on a national level in the United States. They argue that stabilizing current climatic conditions through reductions in greenhouse gas emissions is necessary to preserve remaining American pika habitat.

According to the IPCC, anthropogenic emissions of long-lived greenhouse gases, especially carbon dioxide, are currently contributing the largest positive radiative forcings (leading to warming of climate) of any climatic factor (Forster *et al.* 2007, pp. 136–137). Furthermore, the IPCC determined that the cumulative radiative forcings from human activities are influencing present and future climatic conditions much more than natural processes (Forster *et al.* 2007, pp. 136–137). The petitioner argues that changes in climate caused by human activities must be mitigated through stronger regulatory mechanisms because existing mechanisms are inadequate.

To demonstrate that past attempts at regulating global emissions have failed, the petitioner summarizes major global climate initiatives. The petitioner claims that the United Nations Framework Convention on Climate Change has not effectively controlled global greenhouse emissions, because the year 2000 emission goals established under this convention were not met. Furthermore, the petitioner states that the Kyoto Protocol also is inadequate to prevent significant climate change because emissions reduction targets for the first commitment period are unlikely to be met, the goals are too modest to sufficiently reduce global warming, and negotiations have not begun in earnest for emission reductions after 2012. They claim that a major reason why the Kyoto Protocol's goals will not be met is because the United States has not ratified the protocol.

To demonstrate the need for United States regulation, the petitioner presents data indicating that United States emissions are expected to increase by 43.5 percent between 2001 and 2025 (GAO 2003, p. 2), a substantial contrast to the reduction goals laid forth in the Kyoto Protocol. The petitioner asserts that the lack of action by the U.S. Environmental Protection Agency (EPA) to regulate greenhouse gas emissions under the Clean Air Act illustrates the inadequacy of existing regulatory mechanisms. Specifically, the petitioner describes the 2007 decision by the Supreme Court overturning EPA's rejection of a petition to regulate greenhouse gas emissions from automobiles under the Clean Air Act, and asserts that EPA has not yet taken action in response to the matter being remanded to it by the Supreme Court for further consideration. [Note: EPA recently responded to the Supreme Court by publishing a finding on April 17, 2009, on six greenhouse gases that contribute to air pollution; the EPA finding does not affect this 90-day petition finding.] The petitioner also asserts that the Federal government's Global Climate Change Initiative, which relies on voluntary measures and focuses on reducing the amount of greenhouse gas emissions per unit of energy produced, not the overall level of emissions, is inadequate and that under the plan U.S. cumulative greenhouse gas emissions would continue to increase between 2002 and 2012, based on information from the U.S. Government Accounting Office (GAO 2003a). Lastly, while they acknowledge that some examples of legislation, such as the California Global Warming Solutions Act of 2006, are steps in the right direction, they believe that State and local regulations are insufficient on their own to slow global warming.

The petitioner stresses that immediate legislative action is necessary to save the American pika because scientists warn that we are approaching emission levels that would cause dangerous climate change (Hansen *et al.* 2008, pp. 217–218). Hansen *et al.* (2008, p. 218)

concluded that present global mean carbon dioxide (CO2) concentration of 385 parts per million (ppm) is already in the dangerous zone. Hansen *et al.* (2008, p. 217) further concluded that a 350-ppm CO2 target is necessary if ''humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted.''

The petition concludes that existing regulatory mechanisms relating to global warming are inadequate to ensure the continued survival of the American pika and that regulatory measures related to other threats to the pika are also inadequate to ensure its survival in the face of advancing climate change. It asserts that ensuring the American pika's survival requires immediate action, particularly in the United States, to reduce greenhouse gas emissions.

Summary of Inadequacy of Existing Regulatory Mechanisms

The petitioner provides information relative to regulations that address a change of global or national carbon dioxide emissions to levels that would affect global surface warming trends. We will further investigate whether the inadequacy of existing regulatory mechanisms is a potential threat when we address the threats to the American pika in our 12-month status review.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The petitioner states that the American pika is threatened by human activities, including roadways and recreational activities. They present the results of Beever *et al.* (2003, pp. 37–54) that show a negative correlation between population persistence and distance to roads, and a positive correlation between population persistence and lands managed under wilderness protection. They also state that the alpine and subalpine forging habitats on which the America pika is dependent are sensitive to disturbance and difficult to restore and that, therefore, any major human disturbances, such as roads or off-highway vehicle (OHV) use, have an enduring effect on the landscape. The petitioner cites the New Mexico and Nevada WAPs, which acknowledge roadways and recreational usage as threats to alpine communities (Nevada Department of Wildlife 2005, p. 159; New Mexico Department of Game and Fish 2006, p. 183).

Human activities could alter the ecology or life history of the American pika in many ways, including direct take (recreational shooting), harassment (proximity of cars, pets, or people), and vegetation community change (trampling or removal of plants). The petitioner focuses on two specific types of disturbance, roads and recreational OHV usage, as threats most likely to alter pika persistence.

Research in the Great Basin demonstrates that American pika population persistence is negatively correlated with proximity to roads, and even more so when analyzing distance to primary roads (Beever *et al.* 2003, p. 45). In analyses, the ''distance to roads'' parameter appeared in four of the top five models, including the most plausible model (Beever *et al.* 2003, p. 46). Although this signals an important relationship between road proximity and pika population persistence, the authors acknowledged that other variables (such as elevation and habitat size) may be confounding these results (Beever *et al.* 2003, p. 49), and reveal that direct human influence was only seen at three of seven extirpated sites (Beever *et al.* 2003, p. 45). Roads pose a possible risk to a subset of American pika populations. However, we found no evidence that roads constitute a rangewide threat; the majority of pika populations are currently in areas unlikely to have roads, such as steep, high-elevation sites.

The petitioner asserts that human activities also may alter the ecology of the American pika habitat and have long-term consequences, because alpine environments provide little opportunity for ecosystem recovery (Butler 1995 and Chambers 1997 cited in Beever *et al.* 2003, p. 49). A possible safeguard to these effects is the fact that protected wilderness areas are concentrated at these high-elevation sites (Norton 1999 cited in Beever *et al.* 2003, p. 50). However, wilderness areas encompass only a fraction of alpine habitat in the western United States. Although alpine areas have historically been free of dense human activity, human-induced threats are increasing.

The petitioner asserts that a newly emerging threat is recreational OHV usage on non-snow-covered terrain. Recreational OHV usage has the potential to greatly alter alpine systems through vegetation disturbance, trail creation, and increased erosion. Additionally, OHVs provide easier access to alpine areas, increasing human presence in areas previously considered remote. When OHV usage is combined with communication towers and ski activities, human presence and impacts on alpine areas are at unprecedented levels. However, we found minimal evidence to support the hypothesis that human influence in alpine communities constitutes a rangewide threat to the American pika, because the probability of direct human disturbance to population locations remains quite low.

Summary of Natural or Manmade Factors Affecting Continued Existence

Although direct human disturbance can negatively affect American pika population sites, the probability of humans interacting with the American pika remains low across the species' range because the species inhabits remote alpine locations. Lower elevation population locations are more susceptible to human disturbances because they are more likely to have roads and more accessible to human activity. We will further investigate whether natural or manmade factors affecting the continued existence of the American pika are potential threats when we address the threats to the species in our 12-month status review.

Finding

We reviewed the petition, petition supplement, supporting information provided by the petitioner, and information in our files, and evaluated that information to determine whether the sources cited support the claims made in the petition. We find that the petitioner presented substantial information under Factor A, indicating that listing the American pika as threatened or endangered under the Act may be warranted because of the present or threatened destruction, modification, or curtailment of its habitat or range as a result of effects related to global climate change. Continued surface warming may alter alpine ecosystems to conditions that do not support the American pika, possibly resulting in individual mortality, population extirpations, and range contraction. We will address any other potential threats during our 12-month status review.

Therefore, we are initiating a status review to determine if listing the American pika under the Act is warranted. As part of our status review of the American pika, we will examine available information on threats to the species and make a final determination on whether the species is warranted for listing as threatened or endangered under the Act.

We encourage interested parties to continue gathering data that will assist with the conservation and monitoring of the American pika. You may submit information regarding the American pika by one of the methods listed in the **ADDRESSES** section at any time. The petitioner requested that critical habitat be designated for this species. If we determine in our 12-month finding that listing the American pika is warranted,

we will address the designation of critical habitat at the time of the proposed listing rulemaking.

The ''substantial information'' standard for a 90-day finding is not the same as the Act's ''best scientific and commercial data'' standard that applies to a 12-month finding to determine whether a petitioned action is warranted. A 90-day finding is not a status assessment of the species and does not constitute a status review under the Act. Our final determination of whether a petitioned action is warranted is not made until we have completed a thorough status review of the species as part of the 12-month finding on a petition, which is conducted following a positive 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a positive 90-day finding does not mean that the 12-month finding also will be positive.

References Cited

A complete list of all references cited herein is available upon request from the Utah Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

Author(s)

The primary authors of this document are staff from the Utah Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 29, 2009

Signed: Bernard Mazer

Acting Director, U.S. Fish and Wildlife Service

[FR Doc. E9–10551 Filed 5–6– 09; 8:45 am]

BILLING CODE 4310–55–S

Notices

Federal Register
Vol. 74, No. 87
Thursday, May 7, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will meet Thursday, May 14, 2009. The meeting will be held in Room M09 in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC at 9 a.m.

The ACHP was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*) to advise the President and Congress on national historic preservation policy and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The ACHP's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Defense, Housing and Urban Development, Commerce, Education, Veterans Affairs, and Transportation; the Administrator of the General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; a Native American; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

Call To Order—9 a.m.

I. Chairman's Welcome.

II. Preserve America and Chairman's Award Presentation.

III. Native American Activities.

A. Native American Advisory Group.

B. Native American Program Report.

IV. Historic Preservation and the American Recovery and Reinvestment Act.

V. Implementing ACHP Recommendations on the Structure of the Federal Preservation Program.

VI. Preserve America Program Implementation.

A. Current Status.

B. Implementing the Preserve America/Save America's Treasures Authorizing Legislation.

C. Preserve America Summit Recommendations: Looking to the Future.

VII. Preservation Initiatives Committee.

A. Legislative Update.

VIII. Federal Agency Programs Committee.

A. Section 3 Report to the President: Follow Up.

B. Section 106 Case Updates.

IX. Communications, Education, and Outreach Committee.

A. Service Learning Initiative.

X. Chairman's Report.

A. ACHP Alumni Foundation.

B. Transition.

XI. Executive Director's Report.

A. Staff Changes and Recruitment.

B. Diversity Initiative.

XII. New Business.

XIII. Adjourn.

Note: The meetings of the ACHP are open to the public.

If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Room 803, Washington, DC, 202–606–8503, at least seven (7) days prior to the meeting. For further information: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., #803, Washington, DC 20004.

Dated: April 30, 2009.

John Fowler,

Executive Director.

[FR Doc. E9–10514 Filed 5–6–09; 8:45 am]

BILLING CODE 4310–K6–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0141]

Availability of an Environmental Assessment and Finding of No Significant Impact for a Biological Control Agent for Arundo donax

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the release of a wasp, *Tetramesa romana*, into the continental United States for use as a biological control agent to reduce the severity of *Arundo donax* infestations. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

FOR FURTHER INFORMATION CONTACT: Dr. Carmen Soileau, Senior Entomologist, Evaluation and Permitting of Regulated Organisms and Soil, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1237; (301) 734–5302.

SUPPLEMENTARY INFORMATION:

Background

Arundo donax is a highly invasive, bamboo-like weed that was introduced to North America in the early 1500s for its fiber uses. It is among the fastest growing plants in the continental United States, making it a severe threat to riparian areas, where it causes erosion, damages bridges, alters channel morphology, increases costs for chemical and mechanical control along transportation corridors, and impedes law enforcement activities along international borders. Additionally, *A. donax* consumes excessive amounts of water, competing for water resources in arid regions where these resources are critical to the environment, agriculture, and municipal users.

The proposed biological control agent, *Tetramesa romana,* is a wasp in the insect family Eurytomidae. It has a widespread presence around the Mediterranean basin, from Turkey to Spain and Morocco, and was also found

at one site in southern Africa and one site in China. Two populations of *T. romana* have recently been discovered near Santa Barbara, CA, and in Austin, TX. The establishment of *T. romana* in Texas indicates that the wasp has a moderate level of cold hardiness and is therefore expected to establish throughout the range of *A. donax.*

On March 6, 2009, we published in the **Federal Register** (74 FR 9779–9780, Docket No. APHIS–2008–0141) a notice [1] in which we announced the availability, for public review and comment, of an environmental assessment (EA) that examined the potential environmental impacts associated with the proposed release of this biological control agent into the continental United States.

We solicited comments on the EA for 30 days ending April 6, 2009. We received 10 comments by that date. A written response to all comments received on the EA can be found in appendix 3 of the final EA (see footnote 1).

In this document, we are advising the public of our finding of no significant impact (FONSI) regarding the release of a wasp, *Tetramesa romana,* into the continental United States for use as a biological control agent to reduce the severity of *A. donax* infestations. The finding, which is based on the EA, reflects our determination that release of this biological control agent will not have a significant impact on the quality of the human environment.

The EA and FONSI may be viewed on the Regulations.gov Web site (see footnote 1). Copies of the EA and FONSI are also available for public inspection at USDA, Room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 1st day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–10632 Filed 5–6–09; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the notice, environmental assessment, finding of no significant impact, and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0141.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2009–0015]

Notice of Availability of an Evaluation of the Highly Pathogenic Avian Influenza Subtype H5N1 Status of Suffolk and Norfolk Counties in England

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an evaluation of the animal health status of Suffolk and Norfolk Counties, England, relative to the H5N1 subtype of highly pathogenic avian influenza (HPAI). The evaluation presents our assessment of the HPAI H5N1 detection, control, and eradication measures in place in Suffolk and Norfolk Counties, England, during outbreaks of HPAI H5N1 in 2007, as well as our assessment of the present status of Suffolk and Norfolk Counties, England, with respect to HPAI subtype H5N1. We are making this evaluation available to the public for review and comment. If, after the close of the comment period, APHIS can identify no additional risk factors that would indicate that domestic poultry in Suffolk and Norfolk Counties in England continue to be affected with HPAI H5N1, we would conclude that the importation of live birds, poultry carcasses, parts of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from the affected regions of Suffolk and Norfolk Counties in England presents a low risk of introducing HPAI H5N1 into the United States.

DATES: We will consider all comments that we receive on or before June 8, 2009.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009–0015* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2009–0015, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2009–0015.

Reading Room: You may read any comments that we receive on the evaluation in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Ingrid Kotowski, Import Risk Analyst, Regionalization Evaluation Services International, National Center for Import and Export, VS, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606; (919) 855–7732.

SUPPLEMENTARY INFORMATION:

Background

Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) has the authority to prohibit or restrict the importation into the United States of animals, animal products, and other articles in order to prevent the introduction of diseases and pests into the U.S. livestock and poultry populations.

Highly pathogenic avian influenza (HPAI) is a zoonotic disease of poultry. The H5N1 subtype of HPAI is an extremely infectious and fatal form of the disease. HPAI can strike poultry quickly without any warning signs of infection and, once established, can spread rapidly from flock to flock. HPAI viruses can also be spread by manure, equipment, vehicles, egg flats, crates, and people whose clothing or shoes have come in contact with the virus. HPAI viruses can remain viable at moderate temperatures for long periods in the environment and can survive indefinitely in frozen material. The H5N1 subtype of HPAI has been of particular concern because it has crossed the species barrier and caused disease in humans.

In February 2007, the Chief Veterinary Officer of the United Kingdom of Great Britain and Northern Ireland (UK) reported to the World Organization for Animal Health (OIE) the occurrence of HPAI H5N1 in domestic poultry in Suffolk County, England, near the border with Norfolk County. Emergency response measures implemented by UK animal health authorities included establishing a restricted zone of control measures that encompassed parts of Suffolk and Norfolk Counties.

In November 2007, a second outbreak of HPAI H5N1 was reported to have occurred in domestic poultry in Suffolk County. Animal health authorities in the UK again implemented emergency control measures to prevent the spread of HPAI H5N1 and eradicate it from the domestic poultry population. Additional surveillance revealed no evidence of subsequent cases of HPAI H5N1 in Suffolk or Norfolk County. Accordingly, the emergency measures were lifted on December 19, 2007. On May 12, 2008, the UK formally notified the OIE that the outbreak had been resolved.

To prevent the introduction of HPAI H5N1 into the United States, APHIS added Suffolk and Norfolk Counties to the list of regions that APHIS considers to be affected with HPAI H5N1. This resulted in restriction on the importation of bird, poultry, and bird and poultry products into the United States from those two counties.

In a document titled ''Evaluation of the Highly Pathogenic Avian Influenza H5N1 Status of Suffolk and Norfolk Counties, England'' (January 2009), we present the results of our evaluation of the status of HPAI H5N1 in domestic poultry in Suffolk and Norfolk Counties, England, in light of the actions taken by UK authorities since the outbreaks, and document our analysis of the risk of HPAI H5N1 introduction and spread in Suffolk and Norfolk Counties, England, and whether removing Suffolk and Norfolk Counties from the list of regions that APHIS considers to be affected with HPAI H5N1 would be appropriate.

We based our evaluation of the HPAI H5N1 status of Suffolk and Norfolk Counties in England, on the following critical factors:

- Suffolk and Norfolk Counties have been free of outbreaks of the H5N1 subtype in its domestic poultry for at least 3 months as a result of effective control measures taken by a competent veterinary infrastructure;
- HPAI H5N1 was a reportable disease in the UK and an ongoing awareness program was in place;
- An effective surveillance program for HPAI that supported the detection and investigation of outbreaks was in place;
- All reported suspected or confirmed cases of avian influenza were investigated;
- The system for recording, managing, and analyzing diagnostic and surveillance data was sufficient to demonstrate the effectiveness of the UK's HPAI H5N1 control measures;
- Diagnostic and laboratory capabilities were effective, and testing procedures were documented and standardized;
- Eradication and control measures, including movement restrictions, were effectively implemented in response to outbreaks to prevent further spread of disease; and
- Procedures used for depopulation cleaning and disinfection of affected premises were documented and effective.

Based on these factors, which are consistent with the OIE's recommendations for reinstatement for trade with a country that has experienced an HPAI H5N1 outbreak,[1] our evaluation concludes that the UK was able to effectively control and eradicate HPAI H5N1 in the domestic poultry population and that the UK authorities have adequate control measures in place to rapidly identify, control, and eradicate the disease should it be introduced into the UK's wild birds or domestic poultry population.

We are making the evaluation available for public comment. We will consider all comments that we receive on or before the date listed under the heading DATES at the beginning of this notice.

If, after the close of the comment period, APHIS can identify no additional risk factors that would indicate that domestic poultry in Suffolk and Norfolk Counties in England continue to be affected with HPAI H5N1, we would conclude that the importation of live birds, poultry carcasses, parts of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from regions of Suffolk and Norfolk Counties presents a low risk of introducing HPAI H5N1 into the United States.

The evaluation may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the evaluation by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the evaluation when requesting copies.

Done in Washington, DC, this 1st day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–10630 Filed 5–6–09; 8:45 am]

BILLING CODE 3410–34–P

[1] OIE (2008). Risk Analysis. In, *Terrestrial Animal Health Code,* 17th edition. Paris, World Organization for Animal Health: Chapter 2.2 on Import Risk Analysis; Chapter 10.4 on Avian Influenza. To view the document on the Internet, go to *http://www.oie.int/eng/normes/mcode/A_summry.htm?e1d11.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2009–0021]

Pale Cyst Nematode; Update of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of changes to quarantined area.

SUMMARY: We are advising the public that we have made changes to the area in the State of Idaho that is quarantined to prevent the spread of pale cyst nematode. The description of the quarantined area was updated on February 10, 2009, when approximately 2,721 acres were removed from the quarantined area and approximately 4,976 acres were added to the quarantined area.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen Y. Smith, National Program Manager, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road, Unit 150, Riverdale, MD 20737–1236; (301) 734–5235.

SUPPLEMENTARY INFORMATION:

Background

The pale cyst nematode (PCN) (*Globodera pallida*) is a major pest of potato crops in cool-temperature areas. Other solanaceous hosts include tomatoes, eggplants, peppers, tomatillos, and some weeds. The PCN is thought to have originated in Peru and is now widely distributed in many potato-growing regions of the world. PCN infestations may be expressed as patches of poor growth. Affected potato plants may exhibit yellowing, wilting, or death of foliage. Even with only minor symptoms on the foliage, potato tuber size can be affected. Unmanaged infestations can cause potato yield loss ranging from 20 to 70 percent. The spread of this pest in the United States

could result in a loss of domestic or foreign markets for U.S. potatoes and other commodities.

The PCN quarantine regulations (§§ 301.86 through 301.86–9, referred to below as the regulations) set out procedures for determining the areas quarantined for PCN and impose restrictions on the interstate movement of regulated articles from quarantined areas.

Section 301.86–3 of the regulations sets out the procedures for determining the areas quarantined for PCN. Paragraph (a) of § 301.86–3 states that, in accordance with the criteria listed in § 301.86–3(c), the Administrator will designate as a quarantined area each field that has been found to be infested with PCN, each field that has been found to be associated with an infested field, and any area that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from infested or associated fields.

Paragraph (c) provides that the Administrator will designate a field as an infested field when PCN is found in the field. Paragraph (c) also provides that the Administrator will designate a field as an associated field when PCN host crops, as listed in § 301.86–2(b), have been grown in the field in the last 10 years and the field shares a border with an infested field; the field came into contact with a regulated article listed in § 301.86–2 from an infested field within the last 10 years; or, within the last 10 years, the field shared ownership, tenancy, seed, drainage or runoff, farm machinery, or other elements of shared cultural practices with an infested field that could allow spread of the PCN, as determined by the Administrator.

Paragraph (b) describes the conditions for the designation of an area less than an entire State as a quarantined area. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

1. The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles; and

2. The designation of less than the entire State as a quarantined area will prevent the interstate spread of PCN.

We have determined that it is not necessary to designate the entire State of Idaho as a quarantined area. Idaho has adopted and is enforcing restrictions on the intrastate movement of regulated articles from that area that are equivalent to those we are imposing on the interstate movement of regulated articles.

Paragraph (d) provides for the removal of fields from quarantine. An infested field will be removed from quarantine when a 3-year biosurvey protocol approved by the Animal and Plant Health Inspection Service has been completed and the field has been found to be free of PCN. An associated field will be removed from quarantine when the field has been found to be free of PCN according to a survey protocol approved by the Administrator as sufficient to support removal from quarantine. Any area other than infested or associated fields which has been quarantined by the Administrator because of its inseparability for quarantine enforcement purposes from infested or associated fields will be removed from quarantine when the relevant infested or associated fields are removed from quarantine.

Paragraph (a) of § 301.86–3 further provides that the Administrator will publish the description of the quarantined area on the Plant Protection and Quarantine (PPQ) Web site, *http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml*. The description of the quarantined area will include the date the description was last updated and a description of the changes that have been made to the quarantined area. The description of the quarantined area may also be obtained by request from any local office of PPQ; local offices are listed in telephone directories. Finally, paragraph (a) establishes that, after a change is made to the quarantined area, we will publish a notice in the **Federal Register** informing the public that the change has occurred and describing the change to the quarantined area.

We are publishing this notice to inform the public of changes to the PCN quarantined area in accordance with § 301.86–3(a). On February 10, 2009, we updated the quarantined area to remove approximately 2,721 acres. This acreage was composed of associated fields that were found to be free of PCN according to a survey protocol approved by the Administrator, under § 301.86–3. The fields removed from quarantine were in Bingham, Bonneville, and Jefferson Counties.

We also added approximately 4,976 acres to the PCN quarantined area. This acreage was composed of fields that we determined to be associated with a field that was quarantined as an infested field on December 11, 2008. The fields added to the quarantined area were in Bingham and Bonneville Counties.

The current map of the quarantined area can be viewed on the PPQ Web site at *http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml*.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 1st day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–10628 Filed 5–6–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0166]

Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs; Record of Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public of the Animal and Plant Health Inspection Service's record of decision for the Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs Final Environmental Impact Statement.

ADDRESSES: Copies of the record of decision and the final environmental impact statement on which the record of decision is based are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

The record of decision may also be viewed on the APHIS Web site at *http://www.aphis.usda.gov/plant_health/ea/geneng.shtml*. Supporting and related materials, including the final environmental impact statement, may also be viewed on the Internet at *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0166*.

FOR FURTHER INFORMATION CONTACT: Mr. David A. Bergsten, APHIS Interagency NEPA Contact, Environmental Services, PPD, APHIS, 4700 River Road, Unit 149, Riverdale, MD 20737–1238; (301) 734–6103.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Animal and Plant Health Inspection Service (APHIS) has prepared a record

of decision based on its final environmental impact statement (FEIS) for the Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs, October 2008.

The FEIS was prepared in compliance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations.

On December 19, 2006, APHIS published in the **Federal Register** (71 FR 75933–75934, Docket No. APHIS–2006–0166) a notice of its intent to prepare the environmental impact statement (EIS) for the purpose of analyzing the use of and alternatives to genetic engineering technology applied to sterile insect releases in agency pest control programs. On May 30, 2008, the Environmental Protection Agency (EPA) published in the **Federal Register** (73 FR 31115) a notice of the availability of the draft EIS. The official comment period on the draft EIS ended on July 14, 2008. APHIS accepted late comments on that document until August 6, 2008.

In October 2008, APHIS published and distributed the FEIS, which included discussion of the seven public comments received on the draft EIS. On November 14, 2008, EPA published in the **Federal Register** (73 FR 67511) a notice of the availability of the FEIS. The NEPA implementing regulations in 40 CFR 1506.10 require a 30-day waiting period between the time a final EIS is published and the time an agency makes a decision on an action covered by the EIS. APHIS did not receive any comments on the FEIS by the time this waiting period ended on December 15, 2008.

APHIS has reviewed the FEIS and has concluded that it has fully analyzed the issues covered by the draft EIS and those comments and suggestions submitted by commenters. APHIS has now prepared a record of decision on the FEIS and is making that record available to the public.

The Record of Decision for the Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs Final Environmental Impact Statement, as prepared pursuant to the Council on Environmental Quality's NEPA implementing regulations at 40 CFR 1505.2, is set out below in its entirety.

Record of Decision for the Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs Final Environmental Impact Statement

This Record of Decision (ROD) has been developed in compliance with the agency decision-making requirements of NEPA. The purpose of this ROD is to document APHIS' decision to adopt the preferred alternative of the Final Environmental Impact Statement (FEIS), that is, the alternative to permit integration of genetically engineered insects into its plant pest control and eradication programs. The alternatives have been fully described and evaluated in the FEIS.

This ROD is intended to: (a) State the APHIS decision, present the rationale for its selection, and describe its implementation; (b) identify the alternatives considered in reaching the decision; and (c) state whether all means to avoid or minimize environmental harm from implementation of the selected alternative have been adopted (40 CFR 1505.2).

National Environmental Policy Act

On November 14, 2008, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** [73 FR 67511] a notice of availability of the final environmental impact statement titled ''Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs.'' The FEIS considered the environmental impacts from integration of genetically engineered insects into sterile insect technique components of APHIS plant pest control programs that could result from our adoption of the proposed new technologies.

Pursuant to the implementing regulations for NEPA in cases requiring an EIS, APHIS must prepare a record of decision to express the agency determination from review of the EIS documentation. The NEPA implementing regulations require that a record of decision state what decision is being made; identify alternatives considered in the environmental impact statement process; specify the environmentally preferred alternative; discuss preferences based on relevant factors, including economic and technical considerations, as well as national policy considerations, where applicable; and state how all of the factors discussed entered into the decision. In addition, the record of decision must indicate whether the ultimate decision has been designed to avoid or minimize environmental harm and, if not, why not.

The Decision

This decision described in the ROD addresses impacts from the preferred alternative of the FEIS whose availability was published in the **Federal Register** on November 14, 2008 (73 FR 67511, Docket No. ER–FRL–8587–5). After a thorough evaluation of the potential impacts of the alternatives considered in the FEIS, APHIS has decided to integrate the use of genetically engineered insects into the sterile insect technique used in agency plant pest control programs. This includes the adherence to specific agency requirements for mass-rearing and release of these new strains of plant pests. It also involves adherence to certain procedures for program-specific evaluations of these strains prior to release in any pest control or pest eradication applications. As with any new sterile insect technique, there are some containment, handling, species/strain-specific, and associated release issues that will need to be addressed as part of the NEPA documentation for future advances in the application-specific technologies.

Alternatives Considered in the Impact Statement Process

The FEIS considers the alternatives of (1) No action, essentially maintaining sterile insect technique through irradiation of mass-reared insects in plant pest control programs as is currently practiced, (2) expansion of existing programs in overall size, capacity, and diversity of plant pest species, and (3) integration of genetically engineered insects into APHIS' plant pest control programs.

Environmentally Preferable Alternative

The environmentally preferable alternative for the use of sterile insect technique in plant pest control programs is the alternative that minimizes potential impacts to human health, nontarget species, and environmental quality. Among the alternatives considered in this EIS, the preferred alternative, which involves integration of genetically engineered insects into programs, is also the environmentally preferable alternative. This alternative is environmentally preferable because the potential environmental impacts of this alternative are minimized by program use of genetically engineered strains of sterile and marker-gene insects maintained in biologically secure containment facilities, by the reduced use of irradiation with its associated hazards, by the reduced need for large numbers of insects due to the release of males that are more competitive in mating, and by the reduced need to apply pesticides from a more effective genetic sterile insect technique and improved monitoring of pest populations through the use of genetic markers.

Preferences Among Alternatives

The preference among the alternatives for the final EIS is to integrate genetically engineered insects into the sterile insect technique of APHIS' plant pest control programs. In review of the alternatives considered, APHIS could use the present methods without further development (no action), APHIS could expand on the present methods without genetic engineering technology, or APHIS could integrate genetic technology into the sterile insect technique components of the plant pest programs. Each alternative involves potential impacts, but the context and intensity of those impacts relate largely to the methods and their respective relative effectiveness of sterile insect production. The potential environmental impacts from methods under alternatives other than the preferred alternative are reduced under the preferred alternative to the extent that genetically engineered insects are incorporated. For example, the use of genetically engineered insects has the potential to decrease the need for insecticide applications, to decrease the need to produce both male and female insects for use in sterile insect releases, to increase production of males that are more competitive in mating than radiation-sterilized males, and to eliminate the need to use, operate, and maintain strong gamma radiation sources.

The no action alternative (alternative 1 above) was rejected because continuation of this approach does not contribute to increased mitigation of present or future plant pest risks. It does provide a baseline for the present state of sterile insect technique in plant pest control programs, but it does not provide APHIS program managers the flexibility to apply new methods or new technologies for the control of fruit flies or pink bollworm. In particular, this alternative lacks clear options to expand the use of irradiation, to expand the use of fluorescent dye, to expand development and use of classical selective genetic gender selection processes, and to increase the overall fitness of released radiation-sterilized insects. Any improvement of the insect mass-rearing production as a result of genetic engineering would not occur under this alternative.

The alternative of expansion of existing programs (alternative 2 above) involves an increase in the present plant pest control actions and inputs to improve the effectiveness of sterile insect technique currently used in APHIS plant pest control programs. This alternative could include expansion of the pest insect mass-rearing operations, the irradiation treatment capacity, the development of classical genetic selection methods for separation of insect sexes for more fruit fly species, the use of sterile insect technique for more plant pest species, the sterile insect dispersal capacity, the monitoring and surveillance capacity, and the pest mitigation capacity including the increased use of chemical pesticides. Although this approach could meet the increasing demand for sterile insects, the selection of this alternative would incur higher program costs, greater mass-rearing facility construction, longer timeframes for development, and more extensive pest mitigation efforts than would be afforded by the integration of genetically engineered insects into APHIS sterile insect technique programs.

The preferred alternative (alternative 3 above), integration of genetically engineered insects into programs, provides program managers with several methods for pest risk reduction in an environmentally safe and efficient manner. Although the present plant pest control program benefits apply to fruit flies and pink bollworm, long-term program activities are likely to be extended to other plant pest species and new technologies. APHIS plant pest programs could augment their use of sterile insect technique by mass-rearing only male fruit flies that have a marker gene and are subject to sterilization by radiation, mass-rearing genetically sterilized male fruit flies that have a marker gene and that compete more effectively for mates than radiation-sterilized male insects, mass-rearing fruit flies that produce only male offspring which carry a sterility gene resulting in only males that pass on this sterility gene and no female offspring, mass-rearing both male and female pink bollworm that have a marker gene and are subject to sterilization by radiation, and mass-rearing of both male and female pink bollworm that are genetically sterile and more competitive in mating with wild bollworms than radiation-sterilized bollworms. The benefits to fruit fly programs are long-term in consideration of the continuing introductions that occur from abroad. There are also long-term benefits to cotton growers from successful eradication of pink bollworm that may result from this new technology being incorporated into APHIS program actions.

Please see the FEIS for a full discussion of the reasons why APHIS is proposing to adopt the preferred alternative.

Factors in the Decision

APHIS' authority for action and cooperation with other agencies in these plant pest control programs is based upon the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*), which authorizes the Secretary of Agriculture to carry out operations to eradicate insect pests and to use measures to prevent the dissemination of plant pests that are new or not known to be widely prevalent or distributed within or throughout the United States. There is an impending need for the development of more efficient, lower cost, and more effective control and eradication methods for the pink bollworm and invasive fruit fly species because of the continuing and increasing frequency of detection of fruit flies and other invasive and crop destructive insects. In order to achieve these objectives, the use of genetically engineered insects provides biological traits that are of value for use in sterile insect technique control methodologies. These novel biological traits are not available to present programs and could not be readily developed or adopted for program use by APHIS using other methods.

This record of decision authorizes the development and use of genetically engineered insects in sterile insect technique applications for APHIS plant pest control programs in order to achieve the mandates of the PPA. In addition, this selection of the environmentally preferable alternative for these control programs is in keeping with the ongoing effort at the agency to promote environmental quality through ongoing efforts to identify and add to our regulations valid technical and economically feasible alternatives to fulfill regulatory mandates.

Avoid or Minimize Environmental Harm

The environment can be harmed by the presence of invasive plant pest insect species and the mitigations applied to decrease the pest damage to crops. Actions such as those considered in the preferred alternative reduce pest risks through applications of sterile insect technique in control programs and preventive release programs. The extent to which such actions reduce the pest damage, reduce the need for use of chemical pesticides, and reduce the need to expand facilities and insect production are the basis for minimizing environmental impacts. Adequate enforcement of effective quarantine measures is required to protect the environment from these pest risks. APHIS is committed to monitoring these efforts through the NEPA process, and otherwise.

Other

A considerable amount of research and development of alternatives to ongoing program actions has been done since the early applications of sterile insect technique over a half century ago. Much of this work has involved developing improved strains, developing more effective methods for handling and transport of insects, and developing more effective techniques of insect sterilization. APHIS has attempted to adapt new technologies to our pest control programs as these methods become available and logistically feasible for program applications. The use of genetically engineered insects to improve agency sterile release programs involves genetic engineering technologies that are new to the agency, but many of the sterile release methods have involved extensive testing over many years. The work on improved markers, more effective pest strains (including genetically engineered strains), improved handling, and more efficient rearing is expected to continue to be an important part of APHIS' future innovations to agency pest control programs.

In a notice summarizing EPA comments on recent environmental impact statements and proposed regulations that was published in the **Federal Register** on August 15, 2008 (73 FR 47947–47948), EPA expressed their lack of objection to the draft EIS and APHIS' adoption of the preferred alternative to permit integration of genetically engineered insects into the sterile insect release components of plant pest control programs.

The record of decision has been prepared in accordance with: (1) NEPA, (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 1st day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–10633 Filed 5–6–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Virginia State Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in the Virginia NRCS State Technical Guide for review and comment.

SUMMARY: It has been determined by the NRCS State Conservationist for Virginia that changes must be made in the NRCS State Technical Guide specifically in practice standards: #338, Prescribed

Burning; #391, Riparian Forest Buffer; #490, Tree/Shrub Site Preparation; and #666, Forest Stand Improvement. These practices will be used to plan and install conservation practices.

DATES: Comments will be received for a 30-day period commencing with this date of publication.

FOR FURTHER INFORMATION CONTACT: John A. Bricker, State Conservationist, Natural Resources Conservation Service (NRCS), 1606 Santa Rosa Road, Suite 209, Richmond, Virginia 23229–5014; Telephone number (804) 287–1691; Fax number (804) 287–1737. Copies of the practice standards will be made available upon written request to the address shown above or on the Virginia NRCS Web site: *http://www.va.nrcs.usda.gov/technical/draftstandards.html*.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Virginia will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Virginia regarding disposition of those comments and a final determination of change will be made to the subject standards.

Dated: April 23, 2009.

John A. Bricker,

State Conservationist, Natural Resources Conservation Service, Richmond, Virginia.

[FR Doc. E9–10605 Filed 5–6–09; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Friday, May 15, 2009; 9:30 a.m. EDT.

PLACE: 624 9th St., NW., Room 540, Washington, DC 20425.

Meeting Agenda

This meeting is open to the public.

I. Approval of Agenda.

II. Approval of Minutes of April 17, 2009 Meeting.

III. Announcements.

IV. Staff Director's Report.

- Deputy Staff Director Position

V. Program Planning.

- Update on Status of 2009 Statutory Report
- Update on Briefing Report Backlog
- Approval of Briefing Report on Covert Wiretapping in the War on Terror

VI. Management & Operations.

- Motion Regarding Evaluation of Staff Director Performance (Melendez)
- Motion Regarding Staff Director's Provision of Quarterly Financial Reports to Commission (Melendez)
- Motion Regarding Commission Preparation of a Public Service Announcement (Melendez)
- Motion Regarding Review and Standardization of Agency Regulations, Administrative Instructions and Other Practices (Melendez)

VII. State Advisory Committee Issues.

- Connecticut SAC

VIII. Adjourn.

CONTACT PERSON FOR FURTHER INFORMATION: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8582. TDD: (202) 376–8116.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Pamela Dunston at least seven days prior to the meeting at 202–376–8105. TDD: (202) 376–8116.

Dated: May 5, 2009.

David P. Blackwood,

General Counsel.

[FR Doc. E9–10819 Filed 5–5–09; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review and Extension of Time Limits for the Final Results

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting the first administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China (''PRC'') for the period October 11, 2006, through March 31, 2008. The Department has preliminarily determined that sales have been made below normal value (''NV'') by the respondents. If these preliminary results are adopted in our final results of this review, the Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries of subject merchandise during the period of review.

Interested parties are invited to comment on these preliminary results. The Department intends to issue the final results no later than 180 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''). *See* ''Extension of the Time Limits for the Final Results'' below.

DATES: *Effective Date:* May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, Irene Gorelik, or Bob Palmer, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1394, (202) 482–6905 or (202) 482–9068, respectively.

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) (''*Order*''). On April 1, 2008, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain activated carbon from the PRC for the period October 11, 2006, through March 31, 2008.[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 73 FR 17317 (April 1, 2008). The Department received timely requests by Petitioners[2] to conduct a review of 90 companies. On June 4, 2008, the Department initiated this review with respect to all requested companies. *See*

[1] The Department does not include merchandise that entered the United States during the provisional measures gap period (''gap period''), *i.e.*, April 9, 2007, and April 19, 2007, in our calculation because these entries are not subject to antidumping duties. *See Notice of Preliminary Results of Antidumping Duty Administrative Review: Low Enriched Uranium from France,* 69 FR 3883 (January 27, 2004). However, for the purposes of these preliminary results, we are basing the margin calculation on all reported U.S. sales made during the POR because we are unable to determine whether any reported U.S. sales entered during the gap period. We will request additional information from the respondents with respect to this issue.

[2] Norit Americas Inc. and Calgon Carbon Corporation.

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 73 FR 31813 (June 4, 2008) (''Initiation Notice'').

On June 26, 2008, Petitioners withdrew the request for review with respect to 57 of the 90 originally requested companies. On July 22, 2008, the Department published a notice of rescission in the **Federal Register** for those 57 companies. *See Certain Activated Carbon From the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 42550 (July 22, 2008). On September 16, 2008, Petitioners withdrew the request for review with respect to an additional 19 companies. On October 1, 2008, the Department published a second notice of rescission in the **Federal Register** for those 19 companies. *See Certain Activated Carbon from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 57058 (October 1, 2008). Following the two partial rescissions, 14 companies remained to be reviewed.[3]

On November 26, 2008, the Department published a notice extending the time period for issuing the preliminary results by 120 days to April 30, 2009. *See Certain Activated Carbon from the People's Republic of China: Extension of Time Limits for Preliminary Results of the Antidumping Duty Administrative Review,* 73 FR 72026 (November 26, 2008).

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise.[4] However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to examine all exporters or producers involved in the review.

On June 9, 2008, the Department released CBP data for entries of the subject merchandise during the period of review (''POR'') under administrative protective order (''APO'') to all interested parties having an APO as of five days of publication of the *Initiation Notice*, inviting comments regarding the CBP data and respondent selection. The Department received comments and rebuttal comments between June 23, 2008, and July 3, 2008. Based upon the comments received from the Petitioners and several respondents, on July 8, 2008, the Department provided a second round of CBP data under APO to all interested parties having an APO, and invited comments regarding the second round of CBP data. The Department received parties' second round of comments between July 14, 2008 and July 23, 2008.

On August 5, 2008, the Department issued its respondent selection memorandum after assessing its resources and determining that it could reasonably examine three exporters subject to this review. Pursuant to section 777A(c)(2)(B) of the Act, the Department selected Jacobi Carbons AB (''Jacobi''),[5] Calgon Carbon (Tianjin) Co. Ltd. (''CCT''), and Jilin Bright Future Chemicals Company, Ltd. (''Jilin'') as mandatory respondents.[6] The Department sent its antidumping questionnaire to CCT, Jacobi, and Jilin on August 5, 2008. On August 7, 2008, a separate rate respondent, Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. (''GHC''), requested treatment as a voluntary respondent.

On September 15, 2008, Jilin filed a letter stating that it will not participate as a mandatory respondent in this administrative review.[7] Upon receiving comments from Petitioners regarding Jilin's withdrawal from the proceeding and comments from GHC regarding its status as a voluntary respondent, the Department issued a memorandum selecting GHC as a voluntary respondent. The Department stated that because Jilin decided not to respond to the Department's questionnaires in this administrative review, and the Department previously determined that it had the resources to examine three respondents,[8] it would individually review GHC pursuant to section 782(a) of the Act.[9]

Petitioners submitted deficiency comments regarding all three respondents' questionnaire responses between October 2008 and April 2009. The Department issued supplemental questionnaires to Jacobi, CCT, and GHC between October 2008 and March 2009.

Period of Review

The POR is October 11, 2006, through March 31, 2008.

Surrogate Country and Surrogate Value Data

On August 27, 2008, the Department sent interested parties a letter inviting comments on surrogate country selection and information regarding valuing factors of production.[10] On February 13, 2009, the Department received information to value factors of production (''FOP'') from GHC, CCT, Jacobi, and Petitioners. On February 23, 2009, GHC and Petitioners filed rebuttal comments. On February 24, 2009, GHC provided additional surrogate value information. On March 2, 2009, Petitioners filed additional rebuttal comments. All the surrogate values placed on the record were obtained from sources in India. No parties provided comments with respect to selection of a surrogate country.

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

[3] These companies are: Datong Municipal Yunguang Activated Carbon Co., Ltd.; Hebei Foreign Trade Advertisement Company (and its successor company, Hebei Shenglun Import and Export Group Company); Ningxia Huahui Activated Carbon Co., Ltd.; Ningxia Lingzhou Foreign Trade Co., Ltd.; Ningxia Mineral & Chemical Limited.; Tangshan Solid Carbon Co., Ltd.; Tianjin Maijin Industries Co., Ltd.; Jilin Bright Future Chemicals Company, Ltd.; Jilin Province Bright Future Industry and Commerce Co., Ltd.; Calgon Carbon (Tianjin) Co., Ltd.; Jacobi Carbons AB and its affiliates, Tianjin Jacobi International Trading Co., Ltd. and Jacobi Carbons, Inc.; Tianjin Jacobi International Trading Co., Ltd.; Ningxia Guanghua Cherishment Activated Carbon Co., Ltd.; and Beijing Pacific Activated Carbon Products Co., Ltd.

[4] *See also* 19 CFR 351.204(c) regarding respondent selection, in general.

[5] Consisting of Jacobi Carbons AB and its affiliates, Tianjin Jacobi International Trading Co., Ltd. and Jacobi Carbons, Inc.

[6] *See* Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, from Paul Walker, International Trade Compliance Analyst, AD/CVD Operations, Office 9; First Antidumping Duty Administrative Review of Certain Activated Carbon from the PRC: Selection of Respondents for Individual Review, dated August 5, 2008 (''*Respondent Selection Memo*'').

[7] *See* Letter from Jilin Regarding Activated Carbon from the People's Republic of China and Termination of Jilin's Participation as a Mandatory Respondent, dated September 15, 2008.

[8] *See Respondent Selection Memo.*

[9] *See* Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, through Catherine Bertrand, Program Manager, Office 9, from Julia Hancock and Robert Palmer, International Trade Compliance Analysts, AD/CVD Operations, Office 9; Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Selection of Voluntary Respondent, dated October 14, 2008.

[10] *See* the Department's Letter to All Interested Parties; First Administrative Review of Certain Activated Carbon from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments, dated August 27, 2008.

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.

Non-Market Economy (''NME'') Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review,* 71 FR 66304 (November 14, 2006). None of the parties to this proceeding have contested such treatment. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department investigates imports from an NME country and available information does not permit the Department to determine NV pursuant to section 773(a) of the Act, then, pursuant to section 773(c)(4) of the Act, the Department bases NV on an NME producer's FOPs, to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department determined that India, Indonesia, Philippines, Colombia, and Thailand are countries comparable to the PRC in terms of economic development.[11]

Based on publicly available information placed on the record (*e.g.*, production data), the Department determines India to be a reliable source for surrogate values because India is at a comparable level of economic development pursuant to section 773(c)(4) of the Act, is a significant producer of subject merchandise, and has publicly available and reliable data. Accordingly, the Department has selected India as the surrogate country for purposes of valuing the FOPs because it meets the Department's criteria for surrogate country selection.

Affiliation—GHC

Section 771(33) of the Act, provides that ''the following persons shall be considered to be 'affiliated' or 'affiliated persons' '':

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(B) Any officer or director of an organization and such organization.

(C) Partners.

(D) Employer and employee.

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act stipulates that: ''For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.''

Based on the evidence on the record in this administrative review including information found in GHC's questionnaire responses, the Department preliminarily finds GHC affiliated with Beijing Pacific Activated Carbon Products Co., Ltd. (''Beijing Pacific''), an exporter of the subject merchandise, Cherishmet Inc. (''Cherishmet''), a U.S. importer of the subject merchandise, Ningxia Guanghua Activated Carbon Company (''GH''), a domestic reseller of the merchandise under consideration, and Company A[12] pursuant to sections 771(33) (E), (F) and

[11] *See* the Department's Letter to All Interested Parties; First Administrative Review of Certain Activated Carbon from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments, dated August 27, 2008, at Attachment I (''*Surrogate Country List*'').

[12] The identity of this company is business proprietary information; for further discussion of this company, see Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Robert Palmer, Case Analyst, AD/CVD Operations, Office 9, re; Preliminary Determination in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Affiliation Memorandum of Ningxia Guanghua Cherishmet Activated Carbon Co. Ltd., (April 30, 2009) (''*GHC Affiliation Memo*'').

(G) of the Act, based on ownership and common control.

We find that in addition to being affiliated, the collapsing criterion of significant potential for manipulation of price exists among Beijing Pacific, Cherishmet, GH, and GHC for the following reasons. There is a level of common ownership between and among these companies: (a) Cherishmet owns Beijing Pacific and a significant share of GHC and (b) GH owns a significant share of GHC. Moreover, a significant level of common control exists among these companies: (a) The owner of Cherishmet is a member of Beijing Pacific and GHC's board of directors; (b) Cherishmet appointed the general manager and board member of Beijing Pacific to GHC's board of directors; (c) GH and GHC share board of directors, management, and employees. Further, we find that the operations of Beijing Pacific, Cherishmet, GH, and GHC are sufficiently intertwined. Specifically, Beijing Pacific and GHC share sales information with Cherishmet. Finally, certain information contained within GHC's supplemental questionnaire responses indicates that Cherishmet sets the U.S. sales prices for Beijing Pacific and GHC. *See* 19 CFR 351.401(f)(1) and (2).[13]

Furthermore, we note that the factors listed in 19 CFR 351.401(f)(2) are not exhaustive, and in the context of an NME investigation or administrative review, other factors unique to the relationship of business entities within the NME may lead the Department to determine that collapsing is either warranted or unwarranted, depending on the facts of the case. *See Hontex Enterprises, Inc. v. United States,* Slip Op. 03–17, 36 (February 13, 2003) (noting that the application of collapsing in the NME context may differ from the standard factors listed in the regulation). Additionally, the Department may consider export decisions in its collapsing analysis. *See Hontex Enterprises v. United States,* 342 F. Supp. 2d 1225, 1230–34 (CIT 2004) (''*Hontex II*''). Furthermore, the Department may expand the market-economy inquiry into the potential for manipulation to include NME exporters' export decisions, rather than whether or not the companies share production facilities. *See Hontex II.*

Accordingly, the Department finds Beijing Pacific, Cherishmet, GH and GHC as a single entity for purposes of this administrative review. *See* 19 CFR 351.401(f). With respect to Company A, based on evidence on the record and evidence presented in GHC's questionnaire responses, the Department preliminarily determines that Company A is not a single entity with GHC. *See* 19 CFR 351.401(f). For a detailed discussion of this issue, *see GHC Affiliation Memo.*

Facts Available

Sections 776(a)(1) and 776(a)(2) of the Act provide that, if necessary information is not available on the record, or if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party ''promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information,'' the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed ''deficient'' under section 782(d) if: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department; and (5) the information can be used without undue difficulties.

However, section 776(b) of the Act states that if the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission * * *, in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103–316, Vol. 1, at 870 (1994) (*SAA*), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *Id.* An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act.

CCT

On August 19, 2008, CCT requested to be excused from reporting FOP data for certain Chinese producers. On September 30, 2008, the Department requested additional information from CCT regarding its exclusion requests. On October 10, 2008, CCT responded and provided detailed information regarding its producers and production quantities. On October 17, 2008, the Department notified CCT that due to the large numbers of producers that supplied CCT during the POR, its request to be excused from reporting certain FOP data would be granted. *See* the Department's Letter to CCT dated October 17, 2008. Specifically, the Department did not require CCT to

[13] 19 CFR 351.401(f)(1) states that the Department will treat ''two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production.'' Further, 19 CFR 351.401(f)(2) states that ''in identifying a significant potential for the manipulation of price or production, the factors the Secretary may consider include: (i) The level of common ownership; (ii) The extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) Whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.''

report FOP data for the following producers: (1) Datong Nanjiao Huiyuan A/C Co. Ltd.; (2) Datong Fuping Activated Carbon Co., Ltd.; (3) Hongke Activated Carbon Co., Ltd.; (4) Ningxia Luyuangheng Activated Carbon Co., Ltd.; (5) Datong Hongtai Activated Carbon Co., Ltd.; and (6) Shanxi Xuanzhong Chemical Industry Co., Ltd. *Id.*

The Department also notified CCT that it would not be required to report FOP data for products that were produced prior to the POR, as indicated in CCT's October 11, 2008, response. Furthermore, the Department notified CCT that it was not required to report FOP data for products that were purchased by and not produced by CCT's producers, as indicated in CCT's October 11, 2008, response. Additionally, the Department notified CCT that, upon CCT's acceptance of the terms of the FOP data exclusions, the Department shall determine the appropriate facts available to apply, in lieu of the actual FOP data, to the corresponding U.S. sales of subject merchandise. *Id.*

Thus, in accordance with section 776(a)(1) of the Act, the Department is applying facts available to determine the normal value for the sales corresponding to the FOP data CCT was excused from reporting. Due to the proprietary nature of the factual information concerning these producers, these issues are addressed in a separate business proprietary memorandum where a detailed explanation of the facts available calculation is provided. *See* Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Irene Gorelik, Senior Case Analyst, AD/CVD Operations, Office 9: Preliminary Results Analysis Memorandum for Calgon Carbon (Tianjin) Co., Ltd., in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated April 30, 2009 (''*CCT Prelim Analysis Memo*'').

Jacobi

On September 15, 2008, Jacobi requested to be excused from reporting FOP data for certain Chinese producers. On September 30, 2008, the Department requested additional information from Jacobi regarding its exclusion requests. On October 10, 2008, Jacobi responded and provided detailed information regarding its producers and production quantities. On October 20, 2008, the Department notified Jacobi that due to the large numbers of producers that supplied Jacobi during the POR, Jacobi would be excused from reporting certain FOP data. *See* the Department's Letter to Jacobi dated October 20, 2008. Specifically, the Department did not require Jacobi to report FOP data for its five smallest producers.[14] Additionally, the Department notified Jacobi that it was not required to report FOP data for products that were produced by the four largest producers prior to the POR, as indicated in Jacobi's October 11, 2008, request. Thus, the Department determined that upon Jacobi's acceptance of the exclusion terms, the Department would determine the appropriate facts available to apply, in lieu of the actual FOP data for products produced prior to the POR for the four largest producers, to the corresponding U.S. sales of subject merchandise. Lastly, as indicated in Jacobi's October 10, 2008, response, Jacobi's four largest producers purchased certain quantities of activated carbon from unaffiliated suppliers, but did not sell any of the purchased activated carbon to Jacobi. Thus, the Department notified Jacobi that if this were indeed the case, it would be unnecessary for Jacobi to report the FOPs for such purchases to the Department because these products were not sold to Jacobi. *See Jacobi Producers' Exclusion Letter*.

In accordance with section 776(a)(1) of the Act, the Department is applying facts available to determine the normal value for the sales corresponding to the FOP data that Jacobi was excused from reporting. Due to the proprietary nature of the factual information concerning these producers, these issues are addressed in a separate business proprietary memorandum where a detailed explanation of the facts available calculation is provided. *See* Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Julia Hancock, Senior Case Analyst, AD/CVD Operations, Office 9: Preliminary Results Analysis Memorandum for Jacobi Carbons AB, Tianjin Jacobi International Trading Co., Ltd., and Jacobi Carbons, Inc.'s (collectively ''Jacobi'') in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated April 30, 2009 (''*Jacobi Prelim Analysis Memo*'').

GHC

On September 12, 2008, GHC requested to be excused from reporting FOP data for a Chinese producer.[15] On October 17, 2008, the Department notified GHC that because the FOP data for this Chinese producer are of limited quantity and GHC states it produces comparable products, the Department was excusing GHC from providing the Chinese producer's FOP data. *See* the Department's Letter to GHC dated October 17, 2008. Thus, the Department determined that upon GHC's acceptance of the exclusion terms, the Department would determine the appropriate facts available to apply, in lieu of the actual FOP data for products produced by the excluded producer.

Thus, in accordance with sections 776(a)(1) of the Act, the Department is applying facts available to determine the normal value for the sales corresponding to the FOP data that GHC was excused from reporting. Due to the proprietary nature of the factual information concerning these producers, these issues are addressed in a separate business proprietary memorandum where a detailed explanation of the facts available calculation is provided. *See* Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Robert Palmer, Case Analyst, AD/CVD Operations, Office 9: Preliminary Results Analysis Memorandum for Ningxia Guanghua Cherishmet Activated Carbon Co. Ltd. (''GHC'') in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated April 30, 2009 (''*GHC Prelim Analysis Memo*'').

Jilin

As stated in the ''Respondent Selection'' section above, the Department issued the NME questionnaire to Jilin on August 5, 2008. On August 26, 2008, the Department granted Jilin an extension of seven business days to September 5, 2008, in which to submit its Section A questionnaire response. However, the Department was not contacted by Jilin, nor did it receive a response to section A of the Department's questionnaire by the extended deadline (*i.e.*, September 5, 2008). Moreover, the Department did not receive Jilin's response to sections C and D of the questionnaire by the established deadline (*i.e.*, September 11, 2008).[16] However, the Department

[14] The names of these producers are business proprietary information thus not available for public summary. *See* the Department's letter to Jacobi, dated October 20, 2008, for the names of these producers (''*Jacobi Producers' Exclusion Letter*'').

[15] The name of this producer is business proprietary information thus not available for public summary. *See* the Department's letter to Cherishmet, dated October 27, 2008, for the name of this producer (''*Cherishmet Producers' Exclusion Letter*'').

[16] Although Jilin contacted us on September 11, 2008, withdrawing its request for an administrative

Continued

provided Jilin with another opportunity to explain why it had not submitted responses to sections A, C, and D of the August 5, 2008, questionnaire, and requested that it do so by September 19, 2008.[17] As stated above in the ''Respondent Selection'' section, on September 15, 2008, counsel to Jilin filed a letter stating that Jilin would not participate as a mandatory respondent in this administrative review.[18] Therefore, the Department finds it appropriate to rely on the facts otherwise available in order to determine a margin for Jilin for purposes of these preliminary results, pursuant to section 776(a)(2) of the Act.[19]

As stated above, section 776(b) of the Act provides that, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. *See also Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India,* 70 FR 54023, 54025–26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 55792, 55794–96 (August 30, 2002). Adverse inferences may be employed ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See SAA* at 870. As a result of Jilin's termination of participation from the instant proceeding, the Department is not granting Jilin a separate rate and considers Jilin part of the PRC-wide entity. *See* ''PRC-Wide Entity and Selection of Adverse Facts Available Rate'' section below. *See also* the ''Corroboration'' section below for a discussion of the probative value of the PRC-wide rate of 228.11 percent rate.

PRC-Wide Entity and Selection of Adverse Facts Available (''AFA'') Rate

As noted above, the Department determined that, as a result of Jilin's termination of participation from the instant proceeding, the Department is not granting Jilin a separate rate and considers Jilin part of the PRC-wide entity. Thus, the Department finds that the PRC-wide entity, including Jilin, withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding. Moreover, by refusing to answer the Department's questionnaire, the PRC-wide entity, including Jilin, failed to cooperate to the best of its ability. Therefore, the Department must rely on adverse facts otherwise available in order to determine a margin for the PRC-wide entity, pursuant to section 776(a)(2)(A), (B), (C) and 776(b) of the Act.[20] By doing so, the Department ensures that the companies that are part of the PRC-wide entity will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review.

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In reviews, the Department normally selects, as AFA, the highest rate on the record of any segment of the proceeding. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 3987, 3989 (January 22, 2009). The Court of International Trade (''CIT'') and the Federal Circuit have consistently upheld the Department's practice in this regard. *See Rhone Poulenc, Inc.* v. *United States,* 899 F.2d 1185, 1190 (Fed. Circ. 1990) (''*Rhone Poulenc*''); *NSK Ltd.* v. *United States,* 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in an LTFV investigation); *see also Kompass Food Trading Int'l* v. *United States,* 24 CIT 678, 689 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd.* v. *United States,* 360 F. Supp 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value,* 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870; *see also Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil,* 69 FR 76910, 76912 (December 23, 2004); *D&L Supply Co.* v. *United States,* 113 F. 3d 1220, 1223 (Fed. Cir. 1997). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *Rhone Poulenc,* 899 F.2d at 1190. Consistent with the statute, court precedent, and its normal practice, the Department has assigned the rate of 228.11 percent, the highest rate on the record of any segment of the proceeding, to the PRC-wide entity, which includes Jilin, as AFA. *See e.g., Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews,* 72 FR 52049 (September 12, 2007). *See*

review, Norit America, Inc. and Calgon Carbon Corporation (''Petitioners'') requested a review of Jilin; thus, we informed Jilin in the September 12, 2008, letter that it is still under review.

[17] *See* Letter from Catherine Bertrand, Program Manager, Regarding Antidumping Administrative Review of Certain Activated Carbon from the People's Republic of China: Withdrawal of Jilin's Request for Administrative Review (September 12, 2008).

[18] *See* Letter from Jilin Regarding Activated Carbon from the People's Republic of China and Termination of Jilin's Participation As A Mandatory Respondent (September 15, 2008).

[19] *See, e.g., Certain Preserved Mushrooms from the People's Republic of China: Partial Rescission and Preliminary Results of the Sixth Administrative Review, 71 FR 11183 (March 6, 2006) (unchanged in final results); Stainless Steel Sheet and Strip in Coils From Japan: Preliminary Results of Antidumping Duty Administrative Review,* 70 FR 18369 (April 11, 2005) (unchanged in final results).

[20] *See, e.g., Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 71 FR 69546 (December 1, 2006) and accompanying Issues and Decision Memorandum at Comment 1; *see also Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the First Administrative Review and New Shipper Review,* 72 FR 10689, 10692 (March 9, 2007) (decision to apply total AFA to the NME-wide entity), unchanged in *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review,* 72 FR 52052 (September 12, 2007).

''Corroboration of Information'' section below.

Corroboration of Information

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information on which it relies as facts available. ''Secondary information'' is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870. The SAA states that ''corroborate'' means to determine that the information has probative value. To be considered corroborated, information must be found to be both reliable and relevant.[21] The Department is applying as AFA the highest rate from any segment of this administrative proceeding, which is the rate currently applicable to all exporters subject to the PRC-wide rate, including Jilin. The AFA rate in the current review (*i.e.*, the PRC-wide rate of 228.11 percent) represents the highest rate from the petition in the LTFV investigation. *See Order.*

For purposes of corroboration, the Department will consider whether that margin is both reliable and relevant. The AFA rate the Department is applying for the current review was corroborated in the LTFV investigation.[22] No information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds the information continues to be reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico; Final Results of Antidumping Administrative Review*, 61 FR 6812, 6814 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. The information used in calculating this margin was based on sales and production data submitted by the petitioner in the LTFV investigation, together with the most appropriate surrogate value information available to the Department chosen from submissions by the parties in the LTFV investigation, as well as information gathered by the Department itself. *See Activated Carbon LTFV*. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. As there is no information on the record of this review that demonstrates that this rate is not appropriate to use as AFA, the Department determines that this rate has relevance.

As the 228.11 percent rate is both reliable and relevant, the Department determines that it has probative value. Accordingly, the Department determines that the calculated rate of 228.11 percent, which is the current PRC-wide rate, is in accord with the requirement of section 776(c) of the Act that secondary information be corroborated to the extent practicable (*i.e.*, that it have probative value). The Department has assigned this AFA rate to exports of the subject merchandise by the PRC-wide entity, which includes Jilin.

Separate Rates

In the *Separate Rates Application and Certification Letter*,[23] the Department notified parties of the recent application and certification process by which exporters and producers may obtain separate rate status in an NME review. The process requires exporters and producers to submit a separate rate status certification and/or application. *See also Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries*, (April 5, 2005) (''*Policy Bulletin 05.1*''), available at: *http://ia.ita.doc.gov*. However, the standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* government control over its export activities) has not changed.

A designation of a country as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(c)(i) of the Act. In proceedings involving NME countries, it is the Department's practice to begin with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. See, *e.g., Policy Bulletin 05.1; see also Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People's Republic of China*, 71 FR 53079, 53080 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006). It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can affirmatively demonstrate that it is sufficiently independent so as to be entitled to a separate rate. *Id.* Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. *Id.* The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control. *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

Excluding the companies selected for individual review, the Department received separate rate applications or certifications from the following

[21] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996) unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (March 13, 1997).

[22] *See Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007) (''*Activated Carbon LTFV*''). An amended final determination was published on March 30, 2007. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 15099 (March 30, 2007).

[23] *See* the Department's letter to interested parties entitled, ''Administrative Review of Certain Activated Carbon from the People's Republic of China: Separate Rate Application and Separate Rate Certification,'' dated August 15, 2008 (''*Separate Rates Application and Certification Letter*'').

companies: Ningxia Huahui Activated Carbon Co., Ltd.; Ningxia Lingzhou Foreign Trade Co., Ltd.; Tangshan Solid Carbon Co., Ltd.; Tianjin Maijin Industries Co., Ltd.; Datong Municipal Yunguang Activated Carbon Co., Ltd.; Hebei Foreign Trade Advertisement Company; and Beijing Pacific Activated Carbon Products Co., Ltd. Additionally, the Department received completed responses to the Section A portion of the NME questionnaire from CCT, Jacobi, and GHC, which contained information pertaining to the companies' eligibility for a separate rate. However, Ningxia Mineral & Chemical Limited, one of the companies upon which the Department initiated an administrative review that has not been rescinded, did not submit either a separate-rate application or certification. Therefore, because Ningxia Mineral & Chemical Limited did not demonstrate its eligibility for separate rate status, it has now been included as part of the PRC-wide entity. Also, as noted above, Jilin has not participated in this administrative review. Therefore, Jilin (including affiliate Jilin Province Bright Future Industry and Commerce Co., Ltd.) has failed to demonstrate its eligibility for a separate rate.

Separate Rate Recipients

1. Wholly Foreign-Owned

CCT and Jacobi have reported that they are wholly foreign-owned. CCT reported that 100 percent of its shares are held by Calgon Carbon Corporation, which is located in the United States. *See* CCT's Section A Questionnaire Response dated September 16, 2008, at pages 2–4. Jacobi reported that it is wholly owned by a company located in a market-economy country, Sweden. *See* Jacobi's Section A Questionnaire Response dated September 5, 2008 at page 3. Therefore, there is no PRC ownership of CCT or Jacobi, and because the Department has no evidence indicating that either company is under the control of the PRC, a separate rates analysis is not necessary to determine whether they are independent from government control.[24] Additionally, one of the exporters under review not selected for individual review, Tangshan Solid Carbon Co., Ltd., reported in its separate-rate certification that it is 100 percent foreign owned. *See* Tangshan Solid Carbon Co. Ltd.'s Separate Rate Certification dated September 15, 2008, at 2. Accordingly, the Department has preliminarily granted separate rate status to CCT, Jacobi, and Tangshan Solid Carbon Co. Ltd.

2. Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

GHC[25] and six of the separate rate applicants in this administrative review stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies. The Department has analyzed whether GHC and the separate-rate applicants have demonstrated the absence of *de jure* and *de facto* governmental control over their respective export activities.

a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers,* 56 FR at 20589.

The evidence provided by GHC and the six separate rate applicants supports a preliminary finding of *de jure* absence of government control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies. *See, e.g.,* GHC's Section A Questionnaire Response dated September 5, 2008, at pages 2–4; Datong Municipal Yunguang Activated Carbon Co., Ltd.'s Separate Rate Certification dated September 15, 2008, at Exhibit 3; Hebei Foreign Trade and Advertising Corp.'s Separate Rate Certification dated September 15, 2008, at 3–4.

b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide,* 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The evidence provided by GHC and the six separate rate applicants supports a preliminary finding of *de facto* absence of government control based on the following: (1) The companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue. *See, e.g.,* GHC's Section A Questionnaire Response dated September 5, 2008, at pages 2–4; Ningxia Lingzhou Foreign Trade Company's Separate Rate Application dated October 15, 2008, at 10 and Supplemental Response dated January 8, 2009, at 3–4; Tianjin Maijin Industries Co., Ltd.'s Separate Rate Certification dated September 9, 2008, at Exhibit 1. Therefore, the Department preliminarily finds that GHC and six separate-rate applicants have established that they qualify for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers.*

Separate Rate Calculation

As stated previously, this review covers 14 exporters. Of those, the Department selected two exporters, CCT and Jacobi (including affiliates), as mandatory respondents in this review and one voluntary respondent, GHC (including affiliate Beijing Pacific Activated Carbon Products Co., Ltd.). As stated above, two companies, Ningxia

[24] *See Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review,* 66 FR 1303, 1306 (January 8, 2001), unchanged in the final determination; *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China,* 64 FR 71104 (December 20, 1999).

[25] *See* GHC's Section A Questionnaire Response dated September 5, 2008, at pages 2–4. *See also* Beijing Pacific Activated Carbon Products Co., Ltd.'s Separate Rate Certification dated September 15, 2008 at Exhibit 4.

Mineral & Chemical Limited and Jilin (including affiliate, Jilin Province Bright Future Industry and Commerce Co., Ltd.), are part of the PRC-Wide entity, and thus, are not entitled to a separate rate. The remaining six companies submitted timely information as requested by the Department and remain subject to this review as cooperative separate rate respondents.

For the exporters subject to this review that were determined to be eligible for separate rate status, but were not selected as mandatory respondents, the Department normally establishes a simple-average margin based on an average of the rates it calculated for the mandatory respondents, excluding any rates that are zero, *de minimis*, or based entirely on AFA.[26] Accordingly, for these preliminary results, the rates calculated for Jacobi and CCT (excluding GHC, a voluntary respondent) are applied as the rate for non-selected separate entities. That rate is 119.19 percent. Entities receiving this rate are identified by name in the ''Preliminary Results of Review'' section of this notice.

Date of Sale

CCT, Jacobi, and GHC reported the invoice date as the date of sale because they claim that, for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the invoice date. The Department preliminarily determines that the invoice date is the most appropriate date to use as CCT's, Jacobi's, and GHC's date of sale in accordance with 19 CFR 351.401(i) and the Department's long-standing practice of determining the date of sale.[27]

Fair Value Comparisons

To determine whether sales of certain activated carbon to the United States by CCT, Jacobi, and GHC were made at less than fair value, the Department compared either export price (''EP'') or constructed export price (''CEP'') to NV, as described in the ''U.S. Price,'' and ''Normal Value'' sections below.

U.S. Price

Export Price

In accordance with section 772(a) of the Act, the Department calculated the EP for a portion of sales to the United States for GHC because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted. The Department calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, the Department deducted from the starting price to unaffiliated purchasers foreign inland freight and brokerage and handling. Each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, the Department based the deduction of these movement charges on surrogate values. Additionally, for international freight provided by a market economy provider and paid in U.S. dollars, the Department used the actual cost per kilogram of the freight. *See Prelim Surrogate Value Memo* for details regarding the surrogate values for movement expenses.

Constructed Export Price

For all of CCT's and Jacobi's sales and the majority of GHC's sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act, because sales were made on behalf of the Chinese-based companies by a U.S. affiliate to unaffiliated purchasers in the United States. For these sales, the Department based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, the Department made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling adjustments, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, the Department also deducted those selling expenses associated with economic activities occurring in the United States. The Department deducted, where appropriate, commissions, inventory carrying costs, interest revenue, credit expenses, warranty expenses, and indirect selling expenses. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by PRC service providers or paid for in Renminbi, the Department valued these services using surrogate values (*see* ''Factor Valuations'' section below for further discussion). For those expenses that were provided by a market economy provider and paid for in a market economy currency, the Department used the reported expense. However, the Department has not used GHC's reported market economy international freight expenses because they were not provided by and paid for directly through a market economy provider.[28] Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for each company, *see* the company specific analysis memorandums, dated April 30, 2009.

CCT also requested that the Department apply the ''special rule'' for merchandise with value added after importation and excuse CCT from reporting U.S. resales of subject merchandise further processed by Calgon Carbon Corporation (''CCC''), CCT's U.S. parent company, in the United States and the U.S. further-processing cost information associated with the resales. CCT made this request with respect to all categories of U.S. sales with further manufacturing and provided further-processing cost data. *See* CCT's Section A Questionnaire Response dated September 16, 2008, at page 32 and Exhibit 11; *see also* CCT's Supplemental Section C Questionnaire Response dated January 7, 2009 at Exhibit 44–A. Petitioner NORIT submitted comments on October 21, 2008, and December 23, 2008, arguing that, among other concerns, CCT overstated the significance of its further manufacturing costs.

The Department preliminarily determines that the ''special rule'' under section 772(e) of the Act for merchandise with value added after importation applies to the sales made by CCC in the United States. Section 772(e) of the Act provides that, when the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the Department shall determine the CEP for such merchandise using the price to an unaffiliated party of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison, and the Department determines that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if the Department determines that using the price to an unaffiliated party of

[26] *See, e.g., Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review,* 73 FR 8273, 8279 (February 13, 2008) (unchanged in *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review,* 73 FR 49162 (August 20, 2008)).

[27] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand,* 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

[28] *See Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 70.

identical or other subject merchandise is not appropriate, the Department may use any other reasonable basis to determine the CEP.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, the Department estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated purchaser, CCC. Based on the information provided by CCT and the Department's analysis of this information, the Department determined that the estimated value added in the United States by CCC accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. *See* 19 CFR 351.402(c); *see also Antifriction Bearings (other than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Sweden, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part,* 66 FR 36551, 36555 (July 12, 2001) and accompanying Issues and Decision Memorandum at Comment 28 (''*AFBs*''). Therefore, the Department preliminarily determines that the value added is likely to exceed substantially the value of the subject merchandise.

For CCT, the Department preliminarily determines that the remaining quantity of sales of identical or other subject merchandise to unaffiliated persons are sufficient to provide a reasonable basis for comparison and that the use of these sales is appropriate as a basis for calculating margins of dumping on the value-added merchandise. *See* section 772(e) of the Act; *see also AFBs;* Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, through Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Irene Gorelik, Senior Case Analyst, Office 9: Special Rule for Merchandise with Value Added after Importation for the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated April 30, 2009 (''*Special Rule Memo*'').

Accordingly, the Department has determined to apply the ''special rule'' to merchandise with value added after importation to CCT's U.S. resales of subject merchandise further processed by CCC in the United States and excuse CCT from reporting these U.S. sales and the U.S. further-processing cost information associated with the resales. For purposes of these preliminary results, the Department has applied the weighted-average margin from CCT's other U.S. sales to the quantity of U.S. further manufactured sales. *See CCT Prelim Analysis Memo.*

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of non-market economies renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

FOP Reporting Exclusions

As stated above, the Department granted exclusions for certain nominal producers to be excused from providing FOP data for CCT, Jacobi, and GHC. As the corresponding U.S. sales from the material supplied by the excused producers were reported in the U.S. sales listing, the Department has assigned FOPs for similar subject merchandise that was produced by CCT, Jacobi, and GHC, respectively, as facts available, to those sales observations associated with the excluded producers. *See CCT Prelim Analysis Memo, Jacobi Prelim Analysis Memo* and *GHC Prelim Analysis Memo.*

Additionally, CCT has reported that its individual producers could not provide FOP data on a CONNUM-specific basis. *See, e.g.,* CCT letter dated March 17, 2009. Rather, these individual producers have reported FOP consumption data based on product family codes, which are then batch-tested by CCT to determine and assign a CONNUM to the product family codes based on a weighted-average calculation of its producers' FOP consumption. CCT has provided detailed and potentially verifiable information on the standards used in the ordinary course of business by CCT and its producers. *See* Supplemental Section D Questionnaire Response dated February 17, 2009. In addition, CCT has provided samples of FOP consumption data, reconciliation worksheets, and FOP source documentation used in the ordinary course of business by its producers. *See, e.g.,* CCT's Second Supplemental Section D Questionnaire Response dated March 13, 2009, at 2 and Exhibits FW–7, FW–9, FW–11, XX–4. Further, CCT has explained that each of its producers maintains records on the consumption of all raw materials. CCT notes that its producers do not track data during the production process for four product characteristics within the CONNUM: apparent density, hardness, abrasion, and ash content. However, CCT claims that it has provided its FOP data based on as much detail as the books and records of its records and its producers' records would allow. *See* CCT's Supplemental Section D Questionnaire Response dated February 17, 2009, at 3–7. Therefore, on the basis of the data submitted by CCT, which the Department intends to carefully scrutinize at verification, the Department preliminarily determines that CCT's FOP reporting methodology is sufficient to preliminarily calculate an accurate dumping margin. Nonetheless, we are hereby notifying CCT that it should begin to track all records generated in the normal course of business that would allow CCT and its producers to report FOP consumption in future segments of this proceeding taking into account as many CONNUM characteristics as possible.[29] Additionally, as stated in *Certain Tissue Paper Products from the People's Republic of China,* the Department also notes that there is no reason to conclude that respondents in future segments would be unable to report FOPs on a CONNUM-specific basis, notwithstanding the fact that previous respondents have been unable to do so, based on the manner in which they chose to maintain their records. *See Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review,* 73 FR 58113 (October 6, 2008) and accompanying Issues and Decision Memorandum at Comment 2.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs, but when a producer sources an input from a market economy country and pays for it in a market economy currency, the Department may value the factor using the actual price paid for the input.[30] During the POR, Jacobi reported that it

[29] See *Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 74 FR 14514 (March 31, 2009) and accompanying Issues and Decision Memorandum at Comment 1.

[30] *See Lasko Metal Products* v. *United States,* 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs).

purchased certain inputs from a market economy supplier and paid for the inputs in a market economy currency. *See* Jacobi's Section D Questionnaire Response dated October 24, 2008, at D–1–5 and Exhibit D–1–E. The Department has a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716, 61717–18 (October 19, 2006) (*''Antidumping Methodologies''*). In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the market economy purchase price with an appropriate surrogate value (''SV'') according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption. *See Antidumping Methodologies.* When a firm has made market economy input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid market economy purchases meet the 33-percent threshold. *See Antidumping Methodologies.*

The Department used the Indian Import Statistics to value the raw material and packing material inputs that CCT, Jacobi, and GHC used to produce the merchandise under investigation during the POR, except where listed below. With regard to both the Indian import-based surrogate values and the market economy input values, the Department has disregarded prices that the Department has reason to believe or suspect may be subsidized. The Department has reason to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may have been subsidized. The Department has found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized.[31] The Department is also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. *See* Omnibus Trade and Competitiveness Act of 1988, Conference Report to accompany H.R. Rep. 100–576 at 590 (1988) reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24; *see also Preliminary Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30763 n.6 (June 4, 2007) unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007). Rather, the Department bases its decision on information that is available to it at the time it makes its determination. *See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039 (September 24, 2008). Therefore, the Department has not used prices from these countries in calculating the Indian import-based surrogate values. Additionally, the Department disregarded prices from NME countries. Finally, imports that were labeled as originating from an ''unspecified'' country were excluded from the average value, as the Department could not be certain that they were not from either an NME country or a country with general export subsidies. *See id.*

Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by CCT, Jacobi, and GHC, the Department calculated NV based on the FOPs reported by CCT, Jacobi, and GHC for the POR. The Department used data from the Indian Import Statistics and other publicly available Indian sources in order to calculate surrogate values for CCT, Jacobi, and GHC's FOPs (direct materials, energy, and packing materials) and certain movement expenses. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly available Indian surrogate values (except as noted below). The Department's practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, surrogate values which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR and exclusive of taxes and duties. *See, e.g., Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 48195 (August 18, 2008) and accompanying Issues and Decision Memorandum at Comment 2.

As appropriate, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, the Department added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp.* v. *United States,* 117 F. 3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for CCT, Jacobi, and GHC, *see* Memorandum to the File through Catherine Bertrand, Program Manager, Office 9 from Blaine Wiltse, Case Analyst, re; First Administrative Review of Certain Activated Carbon from the People's Republic of China: Surrogate Values for the Preliminary Results (*''Prelim Surrogate Value Memo''*).

In those instances where the Department could not obtain publicly available information contemporaneous to the POR with which to value factors, the Department adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index (''WPI'') as published in the International Financial Statistics of the International Monetary Fund, a printout of which is attached to the *Prelim Surrogate Value Memo* at Exhibit 2. Where necessary, the Department adjusted surrogate values for inflation, exchange rates, and taxes, and the Department converted all applicable items to a per-kilogram basis.

The Department valued electricity using price data for small, medium, and large industries, as published by the

[31] See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review,* 70 FR 54007, 54011 (September 13, 2005) (unchanged in the final results); *China National Machinery Import & Export Corporation* v. *United States,* 293 F. Supp. 2d 1334 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004).

Central Electricity Authority of the Government of India (''CEA'') in its publication titled ''Electricity Tariff & Duty and Average Rates of Electricity Supply in India'', dated July 2006. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. Since the rates are not contemporaneous with the POR, the Department inflated the values using the WPI. Parties have suggested that the Department rely on June 2008 CEA data and International Energy Agency (''IEA'') data. However, the Department preliminarily finds that we cannot rely on those data because we are unable to separate duty rates from the June 2008 CEA data, and the IEA data are less contemporaneous than the July 2006 CEA data. Additionally, Petitioners have recommended that the Department not use CEA data because of a 2007 TERI report that indicated that the rates include subsidies and are below production. However, the Department was unable to find sufficient evidence of subsidies to demonstrate that the electricity rates used in the CEA data were unreliable. Moreover, the Department was also unable to find sufficient evidence to demonstrate that the electricity rates used in the CEA data were below cost. Therefore, we preliminarily determine to value electricity using the CEA price data. *See Prelim Surrogate Value Memo.*

Because water is essential to the production process of the subject merchandise, the Department is considering water to be a direct material input, and not as overhead, and valued water with a surrogate value according to our practice. *See Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China,* 68 FR 61395 (October 28, 2003) and accompanying Issue and Decision Memorandum at Comment 11. Although some suppliers have reported that they obtain water from a well, the Department finds that whether the producer pays for water is irrelevant in determining whether it should be considered a direct material input.[32] Further, there is no evidence on the record that the Indian producers of activated carbon from which the Department are obtaining overhead financial ratio data account for water as an overhead expense. The Department valued water using data from the Maharashtra Industrial Development Corporation (*http://www.midcindia.org*) as it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from June 2003: 193 for the ''inside industrial areas'' usage category and 193 for the ''outside industrial areas'' usage category. Because the value was not contemporaneous with the POR, the Department adjusted the rate for inflation. *See Prelim Surrogate Value Memo.*

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), the Department used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2008; *see Corrected 2007 Calculation of Expected Non-Market Economy Wages,* 73 FR 27795 (May 14, 2008), and *http://ia.ita.doc.gov/wages/index.html*. The source of these wage-rate data on Import Administration's web site is the Yearbook of Labour Statistics 2005, ILO (Geneva: 2007), Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by the respondents. *See Prelim Surrogate Value Memo.*

For coal gas, the Department examined Indian import data and noted that there are no imports of commercial quantities of coal gas for the POR or prior to the POR. Because the Department found no usable data to value coal gas, the Department has determined to use the methodology employed in pure magnesium from the PRC. *See Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 73 FR 76336 (December 16, 2008) and accompanying *Issues and Decisions Memorandum* at Comment 4. Therefore, to value coal gas, the Department first obtained a value for natural gas from the financial statements found in the 2007–2008 Annual Report of the Gas Authority of India Ltd. (''GAIL''), a supplier of natural gas in India. The Department then compared the amount of British thermal units (''BTUs'') in coal gas (*i.e.,* 600) to that of natural gas (*i.e.,* 1150) to calculate the relative percentage of BTUs in coal gas. The Department has applied that percentage to the value of natural gas to determine a surrogate value for coal gas.[33] *See Prelim Surrogate Value Memo.*

The Department calculated the surrogate value for steam based upon the April 2007–March 2008 financial statement of Hindalco Industries Limited (''Hindalco''). *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Final Determination of Sales at Less than Fair Value,* 74 FR 10545 (March 11, 2009), and accompanying Issues and Decision Memorandum at Comment 4. For a detailed explanation of our reasons for using Hindalco's financial statements as the source of the surrogate value for steam, *see Prelim Surrogate Value Memo.*

The Department valued truck freight expenses using a per-unit average rate calculated from data on the infobanc Web site: *http://www.infobanc.com/logistics/logtruck.htm*. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. Since this value is not contemporaneous with the POR, the Department deflated the rate using WPI. *See Prelim Surrogate Value Memo.*

To value international freight, the Department obtained price data from the Maersk SeaLand Web site (*https://www.maerskline.com*). *See Prelim Surrogate Value Memo.* To value marine insurance, the Department used data from RGJ Consultants (*http://www.rjgconsultants.com/*). This source provides information regarding the per-value rates of marine insurance of imports and exports to/from various countries. *See Prelim Surrogate Value Memo.*

To value brokerage and handling, the Department calculated a simple average of the brokerage and handling costs that were reported in public submissions that were filed in three antidumping duty cases.[34] Specifically, the Department averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative

[32] *See Pacific Giant, Inc., et al.* v. *United States,* 223 F. Supp. 2d 1336, 1346 (CIT 2002); *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews,* 69 FR 33626 (June 16, 2004) and accompanying Issues and Decisions Memorandum at Comment 2.

[33] We note that we have also used this methodology in other proceedings. *See Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 70 FR 12651 (March 15, 2005), and accompanying *Issues and Decision Memorandum* at Comment 6; *see also Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China,* 66 FR 22183 (May 3, 2001) (unchanged in *Final Notice of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China,* 66 FR 49632 (September 28, 2001)).

[34] Certain Lined Paper Products from India (07–08), Certain Hot-Rolled Carbon Steel Flat Products from India (06–07), and Certain Preserved Mushrooms From India (05–06).

review of certain lined paper products from India, Essar Steel Limited in the 2006–2007 antidumping duty administrative review of hot-rolled carbon steel flat products from India, and Himalaya International Ltd. in the 2005–2006 administrative review of certain preserved mushrooms from India. The Department inflated the brokerage and handling rate using the appropriate WPI inflator. *See Prelim Surrogate Value Memo*.

To value factory overhead, selling, general, and administrative (''SG&A'') expenses, and profit, the Department used the average of the audited financial statements of three Indian activated carbon producing companies; those being, Core Carbons for fiscal year (''FY'') 07–08, Indo German Carbons Ltd. for FY 07–08, and Kalpalka Chemicals Ltd. for FY 06–07.[35] Additionally, while GHC also provided an additional source for surrogate financial ratios using the financial statements of Quantum Active Carbon Pvt. Ltd. (''Quantum''), which is an Indian producer of activated carbon products, the Department preliminarily finds that the financial statements of this producer should not be used for purposes of calculating surrogate financial ratios because the financial statement was submitted without the profit and loss statement. Although GHC provided Quantum's profit and loss statement on February 24, 2009, 11 days after submitting Quantum's financial statement, GHC did not provide any explanation of how this profit and loss statement was obtained or whether it is available in the public domain. Thus, we find that absent any information on the record with respect to the availability of Quantum's complete financial statements, inclusive of the profit and loss statement, we find that Quantum's financial statement is incomplete. Therefore, pursuant to 19 CFR 351.408(c)(3), the Department preliminarily determines that the FY 07–08 financial statements of Core Carbons and Indo German Carbons Ltd., and the FY 06–07 financial statements of Kalpalka Chemicals Ltd. provide the best available information with which to calculate surrogate financial ratios, because they are complete, publicly available, and contemporaneous with the POR. Additionally, all three of these companies produce comparable merchandise and use an integrated carbonization production process which closely mirrors that of all three respondents. Therefore, the Department has used these financial statements to value factory overhead, SG&A, and profit, for these preliminary results.

With respect to GHC's request for a byproduct offset for fines, the Department has preliminarily determined that the product GHC has claimed as a byproduct is in fact merchandise within the scope of this administrative review because it is still considered activated carbon, and, therefore should not be considered a byproduct. Consequently, the Department is not granting a byproduct credit in our margin calculation for GHC. *See GHC Prelim Analysis Memo*.

Currency Conversion

The Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist:

CERTAIN ACTIVATED CARBON FROM THE PEOPLE'S REPUBLIC OF CHINA

Manufacturer/exporter	Weighted average margin (percent)
Calgon Carbon (Tianjin) Co., Ltd	188.57
Jacobi Carbons AB[36]	49.81
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd[37]	50.84
Datong Municipal Yunguang Activated Carbon Co., Ltd	119.19
Hebei Foreign Trade Advertisement Company	119.19
Ningxia Huahui Activated Carbon Co., Ltd	119.19
Ningxia Lingzhou Foreign Trade Co., Ltd	119.19
Tangshan Solid Carbon Co., Ltd	119.19
Tianjin Maijin Industries Co., Ltd	119.19
PRC-Wide Rate[38]	228.11

Disclosure and Public Hearing

The Department will disclose toparties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Because, as discussed above, the Department intends to seek additional information, the Department will establish the briefing schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. *See* 19 CFR 351.309(c) and (d).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room 1117, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *Id.* Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues

[35] The FY 07–08 financial statements for Core Carbons were submitted by Petitioners on February 13, 2009; the FY 07–08 financial statements for Indo German Carbons Ltd. and the FY 06–07 financial statements for Kalpalka Chemicals Ltd. were submitted by Jacobi on February 13, 2009.

[36] And its affiliates, Tianjin Jacobi International Trading Co., Ltd. and Jacobi Carbons, Inc.

[37] Ningxia Guanghua Cherishment Activated Carbon Co., Ltd. and the following companies have been determined to be a single entity: Beijing Pacific Activated Carbon Products Co., Ltd., Ningxia Guanghua Activated Carbon Company, and Company A. Thus, the calculated margin applies to the single entity.

[38] The PRC-Wide entity includes Ningxia Mineral & Chemical Limited, Jilin Bright Future Chemicals Company, Ltd. and its affiliate, Jilin Province Bright Future Industry and Commerce Co., Ltd.

raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Extension of the Time Limits for the Final Results

Section 751(a)(3)(A) of the Act requires that the Department issue the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the deadline for the final results to a maximum of 180 days after the date on which the preliminary results are published.

In this proceeding, the Department requires additional time to complete the final results of this administrative review to issue additional supplemental questionnaires, conduct verifications of several producers in addition to the exporters, generate the reports of the verification findings, and properly consider the issues raised in case briefs from interested parties. Thus, it is not practicable to complete this administrative review within the original time limit. Consequently, the Department is extending the time limit for completion of the final results of this review by 60 days, in accordance with section 751(a)(3)(A) of the Act. The final results are now due no later 180 days after the publication date of these preliminary results.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review excluding any reported sales that entered during the gap period. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer (or customer)-specific assessment rates for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific ad valorem rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *See* 19 CFR 351.212(b)(1). Where an importer (or customer)-specific ad valorem rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR. *See* 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). See 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific ad valorem ratios based on the estimated entered value. Where an importer (or customer)-specific ad valorem rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. See 19 CFR 351.106(c)(2).

For the companies receiving a separate rate that were not selected for individual review, we will calculate an assessment rate based on the simple average of the cash deposit rates calculated for the companies selected for individual review pursuant to section 735(c)(5)(B) of the Act.

For those companies for which this review has been preliminarily rescinded, the Department intends to assess antidumping duties 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), if the review is rescinded for these companies. The Department will issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be established in the final results of this review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 228.11 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary 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 the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: April 30, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary, for Import Administration.

[FR Doc. E9–10631 Filed 5–6–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–274–804]

Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Jolanta Lawska, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–5973 and (202) 482–8362, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 24, 2008, the U.S. Department of Commerce (''the Department'') published a notice of initiation of the administrative review of the antidumping duty order on carbon

and certain alloy steel wire rod from Trinidad and Tobago, covering the period October 1, 2007, to September 30, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 73 FR 70964 (November 24, 2008). The preliminary results of this review are currently due no later than July 3, 2009.

Extension of Time Limit of Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Consistent with section 751(a)(3)(A) of the Act, the Department may extend the 245-day period to 365 days if it is not practicable to complete the review within a 245-day period.

We determine that completion of the preliminary results of this review within the 245-day period is not practicable. Specifically, we require additional time to thoroughly consider the responses to the supplemental questionnaires the Department has sent to the respondent.

Therefore, we are extending the time period for issuing the preliminary results of review by 120 days, in accordance with section 751(a)(3)(A) of the Act and 19 CFR § 351.213(h)(2) of the Department's regulations. Since a 120-day extension would result in the deadline for the preliminary results falling on October 31, 2009, which is a Saturday, the new deadline for the preliminary results will be the next business day, November 2, 2009. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended,* 70 FR 24533 (May 10, 2005). Therefore, the preliminary results are now due no later than November 2, 2009. The final results continue to be due 120 days after publication of the preliminary results.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: May 1, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–10629 Filed 5–6–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–806]

Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Amended Initiation of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Zev Primor at (202) 482–4114 or Robert Bolling at (202) 482–3434, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUMMARY: On April 27, 2009, the Department of Commerce (''the Department'') published in the **Federal Register** the notice of initiation of antidumping investigation of polyethylene retail carrier bags (''PRCBs'') from the Socialist Republic of Vietnam (''Vietnam''). *See Polyethylene Retail Carrier Bags from Indonesia, Taiwan and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 74 FR 19049 (April 27, 2009) (''*Initiation Notice*''). We are amending the case number assigned to the antidumping investigation of PRCBs from Vietnam from A–552–804 to A–552–806.

SUPPLEMENTARY INFORMATION:

Scope of Investigation

The merchandise subject to this investigation is polyethylene retail carrier bags (''PRCBs''), which also may be referred to as t–shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non–sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end–uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash–can liners.

Imports of merchandise included within the scope of this investigation are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (''HTSUS''). This subheading may also cover products that are outside the scope of these investigations. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

New Investigation Case Number

The investigation number A–552–804 was inadvertently assigned to the antidumping investigation of PRCBs from Vietnam although it was already used in a prior anticircumvention proceeding on certain tissue paper from the People's Republic of China. *See Certain Tissue Paper From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 73 FR 57591 (October 3, 2008). Because case number A–552–804 has already been assigned to a different antidumping proceeding, the Department has assigned a new case number of A–552–806 to the ongoing antidumping investigation of PRCBs from Vietnam. All documents that were already submitted in the ongoing PRCBs from Vietnam antidumping investigation will have their case numbers modified to reflect the new case number (i.e., A–552–806) and no further action is required. All future documents and submissions should refer to the new case number. This notice serves solely to correct the case number as it was listed in the *Initiation Notice*. The Department's findings in the Initiation Notice remain unchanged.

This notice is issued and published pursuant to section 777(i) of the Tariff Act of 1930, as amended.

Dated: May 1, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–10641 Filed 5–6–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Folding Metal Tables and Chairs from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Giselle Cubillos or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1778 or (202) 482–0650, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 2008, the Department of Commerce (''the Department'') published the initiation of the administrative review of the antidumping duty order on folding metal tables and chairs from the People's Republic of China (''PRC''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 44220 (July 30, 2008). This review covers the period June 1, 2007, through May 31, 2008. The preliminary results of review are currently due no later than May 1, 2009.

Extension of Time Limit for Preliminary Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall make a preliminary determination in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period.

On March 4, 2009, the Department published a notice extending the time limit until May 1, 2009, for the preliminary results of this administrative review. *See Folding Metal Tables and Chairs from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 74 FR 9385 (March 4, 2009).

The Department now finds that it is not practicable to complete the preliminary results of the administrative review of folding metal tables and chairs from the PRC within this time limit. Specifically, additional time is needed to obtain sales and factors of production information for additional products not previously reported as subject to this review. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is now fully extending the time period for completion of the preliminary results of this review to 365 days until June 30, 2009.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: May 1, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–10510 Filed 5–6–09; 8:45 am]

BILLING CODE 3510–DS–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2 p.m., Monday, May 18, 2009.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Sauntia S. Warfield, 202–418–5084.

Sauntia S. Warfield,

Assistant Secretary of the Commission.

[FR Doc. E9–10741 Filed 5–5–09; 4:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2008–OS–0146]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 8, 2009.

Title and OMB Number: Department of Defense Education Activity (DODEA) Evaluation and Program Surveys—Generic; OMB Control Number 0704–0437.

Type of Request: Revision.

Number of Respondents: 2500.

Responses per Respondent: 1.

Annual Responses: 2500.

Average Burden per Response: 25 minutes.

Annual Burden Hours: 1,041.

Needs and Uses: The Department of Defense Education Activity (DODEA) has a need to conduct a variety of one-time surveys, interviews, and focus groups on an as-needed basis. The population for these data collections will be limited to students and parents of students attending DODEA schools. These information collections are necessary to measure DODEA's progress on the goals set forth in the Community Strategic Plan, and to assess parent and student input on school policies and procedures. These data collections will include, but are not limited to, school operations and procedures (such as school uniforms, transportation, school calendar), school facilities, curricular and instructional needs and effectiveness, programmatic needs and effectiveness, and extra-curricular and co-curricular activities. The information sought by these data collections will allow DODEA to quickly have access to the information necessary to determine overall effectiveness, increase efficiency, and obtain valuable input from parents and students on new and existing policies and procedures. Data collection instruments to include burden hours and supporting documentation will be submitted to the DOD Clearance Officer and OMB for final approval as they become available.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket

number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 29, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–10489 Filed 5–6–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Board for Employer Support of the Guard and Reserve (DAB–ESGR)

AGENCY: Department of Defense.

ACTION: Notice of open meeting; cancellation.

SUMMARY: The Department of Defense published an announcement of a open meeting of the Defense Advisory Board for Employer Support of the Guard and Reserve on April 17, 2009 (74 FR 17829). The meeting was scheduled for May 7, 2009. This meeting has been canceled. The meeting will be rescheduled and announced at a later date.

FOR FURTHER INFORMATION CONTACT: MAJ Elaine M. Gullotta at 703–696–1385, ext 540, or e-mail at *elaine.gullotta@osd.mil.*

Dated: May 1, 2009.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E9–10487 Filed 5–6–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0077]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by June 8, 2009.

Title, Form, and OMB Number: Signature and Tally Record; DD Form 1907;

OMB Control Number: 0702–0027.

Type of Request: Extension.

Number of Respondents: 130.

Responses per Respondent: 577.

Annual Responses: 75,000.

Average Burden per Response: 3 minutes.

Annual Burden Hours: 3,750.

Needs and Uses: Signature and Tally Record (STR) is an integral part of the Defense Transportation System and is used for commercial movements of all sensitive and classified material. The STR provides continuous responsibility for the custody of shipments in transit and requires each person responsible for the proper handling of the cargo to sign their name at the time they assume responsibility for the shipment, from point of origin, and at specified stages until delivery at destination. A copy of the STR, along with other transportation documentation is forwarded by the carrier to the appropriate finance center for payment.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: April 29, 2009.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E9–10488 Filed 5–6–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Availability of the Final Supplemental Environmental Impact Statement on Rock Mining in the Lake Belt Region of Miami-Dade County, FL (Lake Belt SEIS)

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (USACE) is issuing this notice to advise the public that a Final Supplemental Environmental Impact Statement (Final SEIS) has been completed and is available for review and comment.

DATES: In accordance with the National Environmental Policy Act (NEPA), we have filed the Final EIS with the U.S. Environmental Protection Agency (EPA) for publication of their notice of availability in the **Federal Register**. The EPA notice officially starts the 30-day review period for this document. It is the goal of the USACE to have this notice published on the same date as the EPA notice. However, if that does not occur, the date of the EPA notice will determine the closing date for comments on the Final EIS. Comments on the Final EIS must be submitted to the address below under **FOR FURTHER INFORMATION CONTACT** and must be received no later than 5 p.m. Eastern Standard Time, Monday, June 8, 2009.

ADDRESSES: The Final EIS can be viewed online at *http://www.lakebeltseis.com/.* Copies of the Final EIS are also available

for review at the following libraries: Doral Branch, Miami-Dade County Public Library, 10785 NW. 58th Street, Doral Florida International Mall Branch, Miami-Dade County Public Library—10315 NW 12th Street, Miami, Florida 33172.

FOR FURTHER INFORMATION CONTACT: Ms. Leah Oberlin, Project Manager, U.S. Army Corps of Engineers, Jacksonville District, 4400 PGA Boulevard, Suite 500, Palm Beach Gardens, Florida 33410, Telephone: 561–472–3506, Fax: 561–626–6971.

SUPPLEMENTARY INFORMATION: The USACE is evaluating proposals to fill Waters of the United States in association with limestone mining and related activities in an area of Miami-Dade County known as the Lake Belt. The USACE has analyzed both offsite and onsite alternatives for those that could reasonably satisfy the project purpose, and has carried forward eight alternatives for mining for further detailed analysis along with a No-Action Alternative (Alternative 1). Under the No Action Alternative, mining in the Lake Belt area requiring Department of the Army (DA) permits would not be restarted and the USACE would not issue any additional DA permits for mining in the Lake Belt. Under the other alternatives, mining would be permitted in the Lake Belt area in varying degrees for varying lengths of time. The affected environment is primarily the area immediately surrounding the Lake Belt area in northern Miami-Dade County. Analyses indicate that the environmental impacts are closely tied to the number of acres proposed to be mined, with alternatives proposing the largest amount of mining having the largest environmental impacts for most of the areas of concern. The primary discriminators are: Natural cover types and wetlands, habitat units, potential impacts to endangered wood storks, hydrology, water quality, and socioeconomics. A mitigation plan has been evaluated that could offset many of the potential environmental impacts including seepage.

Dated: April 30, 2009.

Donald W. Kinard,

Deputy Chief, Regulatory Division.

[FR Doc. E9–10611 Filed 5–6–09; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 8, 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 Acting Director, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 4, 2009.

James Hyler,

Acting Director, IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: Integrated Postsecondary Education Data System.

Frequency: Annually.

Affected Public: Businesses or other for-profit; not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 58,090.

Burden Hours: 189,136.

Abstract: The National Center for Education Statistics (NCES) is requesting an amendment to its three-year clearance for the Integrated Postsecondary Education Data System (IPEDS) to run for the 2008–09, 2009–10, and 2010–2011 web-based data collections. Current authorization for IPEDS expires January 31, 2012 (OMB No. 1850–0582). The Higher Education Opportunity Act (HEOA), which became law on August 14, 2008, after OMB had already granted IPEDS a three-year clearance, has several implications for the IPEDS annual web-based data collection. The law requires the immediate implementation of several new institutional reporting requirements so that the data may be made available on the College Navigator website by August 2009. To meet these statutory deadlines, NCES requested two amendments to its clearance package from OMB, in order to meet the August 2009 deadline for several new requirements in the new law. First, a change memo was sent to OMB on August 19, 2008 (known as ''Amendment 1''). It included a small number of non-substantive changes to the 2008–09 data collection based on the new requirements. OMB provided clearance for those changes in a notice on August 26, 2008. Then, NCES submitted a revised clearance package (known as ''Amendment 2''). It included a limited number of additional substantive changes to spring cycle of the 2008–09 IPEDS web-based data collection. OMB provided clearance for those changes in a notice on January 16, 2009.

NCES now requests a third set of revisions to the Original Clearance Package to meet additional Higher Education Opportunity Act (HEOA) requirements for the collection of data related to net price in the 2009–10 and 2010–11 data collections (known hereafter as ''Amendment 3''). These changes do not affect the 2008–09 data collection now underway. These changes will allow NCES to make available on the College Navigator website data on institutional net prices and a multi-year tuition calculator. In addition, we are including a set of changes to improve the data already collected in IPEDS that are based on suggestions from the postsecondary education data community and IPEDS Technical Review Panel. These changes

will improve the reporting of data related to the new HEOA-mandated student-to-faculty ratio, and simplify IPEDS reporting and reduce reporting burden for nondegree-granting institutions.

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 3947. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–10636 Filed 5–6–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Demonstration and Training Programs—Braille Training Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.235E.

DATES: *Applications Available:* May 7, 2009.

Deadline for Transmittal of Applications: June 22, 2009.

Deadline for Intergovernmental Review: August 20, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program offers financial assistance to establish projects that will provide training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 303(d)(2) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 773(d)(2)).

Absolute Priority: For FY 2009 and any subsequent year in which we make awards based on the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Demonstration and Training Programs—Braille Training Program

Grants must be used for the establishment or continuation of projects that may provide: (1) Development of braille training materials; (2) in-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching braille to youths and adults who are blind; or (3) activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

Program Authority: 20 U.S.C. 773(d).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, and 99. (b) The regulations for this program in 34 CFR part 373.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $200,000.

Estimated Range of Awards: $75,000–$100,000.

Estimated Average Size of Awards: $100,000 per each 12-month period.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* State agencies and other public or nonprofit agencies and organizations, including institutions of higher education.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *http://www.ed.gov/fund/grant/apply/grantaps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. Fax: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), call, (toll free): 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.ed.gov/pubs/edpubs.html* or at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program as follows: CFDA number 84.235E.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.*, braille, large print, audiotape, or computer diskette) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. *Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative (Part III) to the equivalent of no more than 45 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (character per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

We will reject your application if you exceed the page limit; or if you apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: May 7, 2009.

Deadline for Transmittal of Applications: June 22, 2009.

Applications for grants under this program must be submitted electronically using the Electronic Grants Application System (e-Application) available through the Department's e-Grants system. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: August 20, 2009.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Demonstration and Training Programs—Braille Training Program competition, CFDA number 84.235E, must be submitted electronically using e-Application, accessible through the Department's e-Grants portal page at: *http://e-grants.ed.gov.*

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. E-Application will not accept an application for this competition after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.
- The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.
- Your electronic application must comply with any page limit requirements described in this notice.
- Prior to submitting your electronic application, you may wish to print a copy of it for your records.
- After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the SF 424 to the Application Control Center after following these steps:

(1) Print SF 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

(4) Fax the signed SF 424 to the Application Control Center at (202) 245–6272.

- We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application Unavailability: If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) E-Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) E-Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–

8930. If e-Application is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of e-Application.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the e-Application system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to e-Application; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Theresa DeVaughn, U.S. Department of Education, 400 Maryland Avenue, SW., room 5045, Potomac Center Plaza (PCP), Washington, DC 20202–2800. FAX: (202) 245–7593.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.235E), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.235E), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and 34 CFR part 373 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Government Performance and Results Act (GPRA) of 1993 directs Federal departments and agencies to improve the effectiveness of programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The goal of the Rehabilitation Services Administration's (RSA) Demonstration and Training Programs—Braille Training Program is to improve the ability of VR service providers or vocational educators to use braille more effectively in working with youth and adults who are blind. A grantee under this program must submit information to allow measurement of project outcomes and performance (34 CFR 373.21). For the Braille Training Program, we are requiring a grantee to collect information on the number of students who attend the program, the number of students who graduate from the program, and whether graduates obtain positions that require braille training following completion of the program.

Grantees are required to report annually to RSA on these data using the RSA Grantee Reporting Form, OMB

number 1890–0004, an electronic reporting system. Instructions containing annual report requirements will be provided to grantees each year prior to the submission of each year's annual report. Grantees are also strongly encouraged to seek technical guidance as needed from RSA staff to ensure they are meeting specific program goals.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Theresa DeVaughn, U.S. Department of Education, Rehabilitation Services Administration, 400 Maryland Avenue, SW., room 5045, PCP, Washington, DC 20202–2800. Telephone: (202) 245–7321 or by e-mail: *Theresa.Devaughn@ed.gov.*

If you use TDD, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Service Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Delegation of Authority: The Secretary of Education has delegated the authority to Andrew J. Pepin, Executive Administrator for the Office of Special Education and Rehabilitative Services to perform the functions of the Assistant Secretary for Special Education and Rehabilitative Services.

Dated: May 4, 2009.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. E9–10651 Filed 5–6–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Rehabilitation Research and Training Centers (RRTCs) and Rehabilitation Engineering Research Centers (RERCs)

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.133B Rehabilitation Research and Training Centers and 84.133E Rehabilitation Engineering Research Centers.

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priorities for RRTCs and RERCs.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes certain funding priorities for the Disability and Rehabilitation Research Projects and Centers Program administered by NIDRR. Specifically, this notice proposes four priorities for RRTCs and three priorities for RERCs. The Assistant Secretary may use these priorities for competitions in fiscal year (FY) 2009 and later years. We take this action to focus research attention on areas of national need. We intend these priorities to improve rehabilitation services and outcomes for individuals with disabilities.

DATES: We must receive your comments on or before June 8, 2009.

ADDRESSES: Address all comments about this notice to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6029, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

If you prefer to send your comments by e-mail, use the following address: *donna.nangle@ed.gov.*

You must include the term ''Proposed Priorities for RRTCs and RERCs'' and the priority title in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Donna Nangle. *Telephone:* (202) 245–7462 or by *e-mail: donna.nangle@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This notice of proposed priorities is in concert with NIDRR's Final Long-Range Plan for FY 2005–2009 (Plan). The Plan, which was published in the **Federal Register** on February 15, 2006 (71 FR 8165), can be accessed on the Internet at the following site: *http://www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

One of the specific goals established in the Plan is for NIDRR to publish all of its proposed priorities, and following public comment, final priorities, annually, in a consolidated notice. Under this approach, NIDRR's constituents can submit comments at one time rather than at different times throughout the year, and NIDRR can move toward a fixed schedule for competitions and more efficient grant-making operations. This notice proposes priorities that NIDRR intends to use for RRTC and RERC competitions in FY 2009 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make an award for each of these priorities. The decision to make an award will be based on the quality of applications received and available funding.

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in room 6029, 550 12th Street, SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended.

Program Authority: 29 U.S.C. 762(g), 764(a), 764(b)(2), and 764(b)(3).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priorities

In this notice, we are proposing four priorities for RRTCs and three priorities for RERCs.

For RRTCs, the proposed priorities are:

- Priority 1—Improved Employment Outcomes for Individuals with Psychiatric Disabilities.
- Priority 2—Transition-Age Youth and Young Adults with Serious Mental Health Conditions.
- Priority 3—Improving Measurement of Medical Rehabilitation Outcomes.
- Priority 4—Developing Strategies to Foster Community Integration and Participation for Individuals with Traumatic Brain Injury.

For RERCs, the proposed priorities are:

- Priority 5—Telerehabilitation.
- Priority 6—Telecommunication.
- Priority 7—Cognitive Rehabilitation.

Rehabilitation Research and Training Centers (RRTCs)

The purpose of the RRTCs is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended, through advanced research, training, technical assistance, and dissemination activities in general problem areas, as specified by NIDRR. Such activities are designed to benefit rehabilitation service providers, individuals with disabilities, and the family members or other authorized representatives of individuals with disabilities. In addition, NIDRR intends to require all RRTC applicants to meet the requirements of the *General Rehabilitation Research and Training Centers (RRTC) Requirements* priority that it published in a notice of final priorities in the **Federal Register** on February 1, 2008 (72 FR 6132). Additional information on the RRTCs can be found at: *http://www.ed.gov/rschstat/research/pubs/res-program.html#RRTC.*

Statutory and Regulatory Requirements of RRTCs

RRTCs must—

- Carry out coordinated advanced programs of rehabilitation research;
- Provide training, including graduate, pre-service, and in-service training, to help rehabilitation personnel more effectively provide rehabilitation services to individuals with disabilities;
- Provide technical assistance to individuals with disabilities, their representatives, providers, and other interested parties;
- Disseminate informational materials to individuals with disabilities, their representatives, providers, and other interested parties; and
- Serve as centers of national excellence in rehabilitation research for individuals with disabilities, their representatives, providers, and other interested parties.

Applicants for RRTC grants must also demonstrate in their applications how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

Proposed Priorities

Proposed Priority 1—Improved Employment Outcomes for Individuals With Psychiatric Disabilities

Background

Individuals with psychiatric disabilities have one of the lowest rates of employment of any disability group—only one in three of these individuals is employed (Kaye, 2002). They also comprise the largest diagnostic category of working-age adults receiving Supplemental Security Income or Social Security Disability Insurance (Social Security Administration [SSA], August, 2008; SSA, September, 2008; McAlpine & Warner, 2001). For individuals with these disabilities who are employed, job retention is a major challenge (Murphy, Mullen & Spagnolo, 2005).

For individuals with psychiatric disabilities, there are numerous barriers to obtaining, retaining, and advancing in meaningful employment. These barriers include: The stigma associated with these disabilities; discrimination; disincentives associated with the loss of Social Security and Medicaid benefits; limits on available and effective vocational rehabilitation (VR) services for this population; and ineffective collaboration between VR, SSA, mental health agencies, and consumer groups (Dew & Alan, 2005; United States Government Accountability Office, 2005; New Freedom Commission on Mental Health, 2003). For some individuals with psychiatric disabilities, these barriers to employment are compounded by ineffective services for addressing the unique needs of individuals from racial, cultural, or linguistic minorities and individuals with both mental and physical health conditions (Substance Abuse and Mental Health Services Administration, 2005; United States Public Health Service Office of the Surgeon General, 2001). Research is needed to develop and advance innovative interventions that address these problems and barriers facing individuals with psychiatric disabilities.

Mental health research funded by NIDRR and others has led to advances in theory development, measurement tools, community-based supports, and treatment options for individuals with psychiatric disabilities. One example of an area of research that has led to advances in community-based supports and treatment options is research related to supported employment, a VR intervention that places consumers in integrated job settings and provides on-the-job training and supports, and salaries at or above minimum wage. Research in this area contributed to the conclusion that supported employment is an effective and evidence-based VR intervention for individuals with psychiatric disabilities (Dew & Alan, 2005; Mueser *et al.*, 2004; New Freedom Commission on Mental Health, 2003).

Despite advances in theory development, measurement tools, community-based supports, and treatment options for individuals with psychiatric disabilities, literature in this

area indicates that evidence-based and promising approaches for improving employment outcomes for individuals with psychiatric disabilities are not being incorporated into existing practice in an effective and consistent manner (Casper & Carloni, 2007, Dew & Alan, 2005). There is extensive documentation about the need to improve the incorporation of research findings in mental health service delivery to improve outcomes for individuals who receive mental health services (Institute of Medicine, 2001; New Freedom Commission on Mental Health, 2003; Substance Abuse and Mental Health Services Administration, 2005).

Further research is needed in order to address the low employment rate of individuals with psychiatric disabilities and to find solutions to the unique barriers these individuals face in obtaining, retaining and advancing in meaningful employment. This research should include a focus on improved models, programs, and interventions, and increased knowledge translation of research findings.

References

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Office of Research, Evaluation, and Statistics, Office of Retirement and Disability Policy, Social Security Administration (2008, August). *Annual statistical report on the Social Security Disability Insurance program, 2007.* (SSA Publication No. 13–11826). Washington, DC: Author.

Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services. (2005). *Transforming mental health care in America. Federal action agenda: First steps.* (DHHS Publication No. SMA 05–4060.) Rockville, MD: Author.

U.S. Government Accountability Office. (2005). *Vocational rehabilitation: Better measures and monitoring could improve the performance of the VR program.* (GAO Publication No. 05–865.) Washington, DC: Author.

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Research and Training Center (RRTC) on Improved Employment Outcomes for Individuals with Psychiatric Disabilities. The RRTC must conduct rigorous research, training, technical assistance, and knowledge translation activities that contribute to improved employment outcomes for individuals with psychiatric disabilities. Under this priority, the RRTC must be designed to contribute to the following outcomes:

(a) Improved models, programs, and interventions to enable individuals with psychiatric disabilities to obtain, retain, and advance in competitive employment of their choice. The RRTC must contribute to this outcome by—

(1) Identifying or developing, and testing, innovative interventions and employment accommodations using scientifically based research (as this term is defined in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended). These interventions and employment accommodations must include an emphasis on consumer control, peer supports, and community living, and address the needs of individuals from traditionally underserved groups (*e.g.*, individuals from diverse racial, ethnic, and linguistic backgrounds, and different geographic areas, and individuals with multiple disabilities).

(2) Conducting research to identify barriers to, and facilitators of, effective partnerships between State vocational rehabilitation (VR) agencies, the Social Security Administration, State and local mental health programs, and consumer-directed programs, and collaborating with these entities to develop new models for effective partnerships.

(3) Developing, testing, and validating adaptations of evidence-based interventions to enhance the effectiveness of those interventions for individuals from traditionally underserved groups (*e.g.*, individuals from diverse racial, ethnic, and linguistic backgrounds, and geographic areas, and individuals with multiple disabilities). Current evidence-based approaches include but are not limited to supported employment.

(b) Increased incorporation of research findings related to employment and psychiatric disability into practice or policy. The RRTC must contribute to this outcome by coordinating with appropriate NIDRR-funded knowledge translation grantees to advance their work in the following areas:

(1) Developing, evaluating, or implementing strategies to increase utilization of research findings related to employment and psychiatric disability.

(2) Conducting training, technical assistance, and dissemination activities to increase utilization of research findings related to employment and psychiatric disability.

In addition to contributing to these outcomes, the RRTC must:

- Collaborate with state VR agencies and other stakeholder groups (*e.g.*, consumers, families, advocates, clinicians, policymakers, training programs, employer groups, and researchers) in conducting the work of the RRTC. Research partners in this collaboration must include, but are not limited to, the NIDRR-funded RRTC for Vocational Rehabilitation Research, the Disability Rehabilitation Research Project on Innovative Knowledge Dissemination and Utilization for Disability and Professional Organizations and Stakeholders, and other relevant NIDRR grantees.

Proposed Priority 2—Transition-Age Youth and Young Adults With Serious Mental Health Conditions

Background

The prevalence of serious mental health conditions in youth and young

adults transitioning from adolescence to adulthood is conservatively estimated to range from 1 to 3.2 million (Davis, 2003; Davis & Vander Stoep, 1997).[1] This prevalence estimate is difficult to calculate largely because diagnostic categories applicable to individuals under the age of 18 differ from those applicable to adults. As defined by the Substance Abuse and Mental Health Services Administration (SAMHSA), the term ''serious emotional disturbance'' (SED) refers to diagnosable mental, behavioral, or emotional disorders resulting in functional impairment that substantially interferes with major life activities in individuals from birth to age 18 (SAMHSA, 1993). The term ''serious mental illness'' is used for comparable disorders in individuals aged 18 and older (SAMHSA, 1993).

For this priority, we define the target population as individuals between the ages of 14 and 30 who have been diagnosed with either SED or serious mental illness, as defined by SAMHSA. We refer to this target population as youth and young adults with serious mental health conditions (SMHC). The best estimate of the prevalence of SMHC is based on the prevalence rates of SED. Estimates of the prevalence of SED are 5 to 9 percent of the population (Davis & Vander Stoep, 1997).

Making the transition to adulthood is especially challenging for youth and young adults with SMHC. As youth and young adults with SMHC transition to adulthood, they are at increased risk for a variety of negative outcomes, including but not limited to arrest, substance abuse, unplanned pregnancy, dropping out of school, unemployment, difficulties in family and peer relationships, and difficulties with independent living (Armstrong *et al.*, 2003; Jonikas *et al.*, 2003). Individuals with disabilities transitioning from adolescence to adulthood, particularly youth and young adults with SMHC, who come from disadvantaged backgrounds (*e.g.*, backgrounds involving foster care, poverty, histories of abuse, or histories of substance abuse), are at even greater risk for negative outcomes (Bobier & Warwick, 2005; Geenen *et al.*, 2005; Lubman *et al.*, 2007; National Council on Disability, 2008).

The New Freedom Commission on Mental Health (Commission) issued a series of recommendations regarding mental health care and its delivery in the U.S. (New Freedom Commission on Mental Health, 2003) that have applicability to programs serving youth and young adults with SMHC. Based on these recommendations, programs for youth and young adults with SMHC should be designed to achieve recovery-based outcomes, *e.g.*, employment, education, and community integration. In addition, these programs should be family- and consumer-guided, *i.e.*, consumers would choose the programs and providers to work with them, and partner with those providers to develop individualized plans of care and to make funding decisions (New Freedom Commission on Mental Health, 2003, pp. 28–29).

Previous research has also identified a number of interventions that show some promise of improving education and employment outcomes for youth and young adults with SMHC. There is some evidence, for example, that supported postsecondary education and supported employment can facilitate positive postsecondary and employment outcomes for this population (Cook *et al.*, 2005; Weiss *et al.*, 2004).

Nevertheless, currently available services for this population have a number of problems. First, because interventions are often designed for either children or adults, the services provided to youth and young adults with SMHC frequently are not coordinated and are not geared toward successfully transitioning children into the adult mental health systems (Davis & Sondheimer, 2005). Second, because service providers are frequently trained to work either with children or adults, they are not adequately trained to work with youth and young adults with SMHC who are transitioning between childhood and adulthood (Davis & Koyanagi, 2005). Under these conditions, programs and interventions are often not well suited to helping this target population to acquire necessary skills for independent living, employment, and community integration, and to maintain those skills in adulthood. In addition, many programs fail to provide a developmentally appropriate balance between the need to involve family members in decision-making and the need for youth and young adults with SMHC to become independent.

Previous NIDRR-funded work has documented the needs of this target population and has contributed to the current knowledge of best practices in transition programs for youth and young adults with SMHC (Deschenes & Clark, 2001; Jonikas *et al.*, 2003). Other NIDRR-funded research has identified factors associated with better community adjustment for this target population, such as initial levels of social adaptive behavior (Armstrong *et al.*, 2003). However, despite previous work concerning youth and young adults with SMHC, there is little scientifically based research demonstrating which interventions are most likely to overcome the barriers described in the prior paragraph, and improve transition outcomes for youth and young adults with SMHC. There is even less scientifically based research on the efficacy of interventions for individuals from this target population who come from disadvantaged backgrounds (*e.g.*, backgrounds involving foster care, poverty, histories of abuse, or histories of substance abuse).

[1] Because this estimate is based on a narrower age range (16–25) than the one specified in this priority, we believe it is a conservative estimate.

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Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Research and Training Center (RRTC) on Transition-Age Youth and Young Adults with Serious Mental Health Conditions (SMHC). This RRTC must conduct research that contributes to improved transition outcomes for youth and young adults with SMHC, including youth and young adults with SMHC from high-risk, disadvantaged backgrounds. The research conducted by this RRTC must focus on family and consumer-guided care. For purposes of this priority, the term ''youth and young adults with SMHC'' refers to individuals between the ages of 14 and 30, inclusive, who have been diagnosed with either serious emotional disturbance (for individuals under the age of 18 years) or serious mental illness (for those 18 years of age or older). Under this priority, the RRTC must contribute to the following outcomes:

(a) Improved and developmentally appropriate interventions for youth and young adults with SMHC. The RRTC must contribute to this outcome by identifying or developing, and evaluating, innovative interventions that meet the needs of youth and young adults with SMHC using scientifically based research (as this term is defined in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended). In carrying out this research, the RRTC must utilize recovery-based outcome measures, including improved employment, education, and community integration, among youth and young adults with SMHC. The RRTC must involve youth and young adults with SMHC, and their families or family surrogates, in the processes of identifying or developing, and evaluating, interventions.

(b) New knowledge about interventions for youth and young adults with SMHC who are from disadvantaged backgrounds (*e.g.*, backgrounds involving foster care, poverty, abuse, or substance abuse). The RRTC must contribute to this outcome by conducting scientifically based research to identify or develop, and evaluate effective interventions, for these at-risk youth and young adults with SMHC.

(c) Improved coordination between child and adult mental health services. The RRTC must contribute to this outcome by conducting research to identify and evaluate innovative approaches that address financial, policy, and other barriers to smooth system integration between the child and adult mental health service systems.

(d) Improved capacity building for service providers. The RRTC must provide training and technical assistance with a particular emphasis on graduate, pre-service, and in-service training and curriculum development designed to prepare direct service providers for work with youth and young adults with SMHC.

(e) Increased translation of findings into practice or policy. The RRTC must contribute to this outcome by coordinating with the RRTC on Vocational Rehabilitation and with appropriate NIDRR-funded knowledge translation grantees to—

(1) Collaborate with State VR agencies and other stakeholder groups (*e.g.*, State educational agencies, youth and young adults with SMHC, families, family surrogates, and clinicians) to develop, evaluate, or implement strategies to increase utilization of findings in programs targeted to youth and young adults with SMHC; and

(2) Conduct dissemination activities to increase utilization of the RRTC's findings.

Proposed Priority 3—Improving Measurement of Medical Rehabilitation Outcomes

Background

One of the central objectives of NIDRR-funded rehabilitation research is to ''increase the number of validated new or improved methods for assessing function and health status'' (*NIDRR Long-Range Plan,* 2005–2009, Executive Summary, 2007). To achieve this objective, state-of-the-art methods of measuring medical rehabilitation outcomes and the personal, clinical, and environmental factors that shape those outcomes are needed.

Data collection techniques, such as item-response theory and computerized dynamic assessment technologies, have demonstrated great potential for increasing the efficiency of data collection and the precision of measuring rehabilitation outcomes (Ware, 2003). Continued improvements in data collection and measurement methods will improve the capacity of practitioners to measure medical rehabilitation outcomes in a wide variety of settings and across disability groups.

In the past, NIDRR has funded several centers on rehabilitation outcomes measurement and sponsored numerous conferences and symposiums on this topic. A recent NIDRR-funded Post-Acute Rehabilitation Symposium (Symposium) identified a number of emerging outcomes measurement topics that require a special focus (Heinemann, 2007).

One topic the Symposium identified was the measurement of cognitive functioning. The ability to learn, as well as to attend to and participate in self-care, are critical cognitive skills associated with other successful medical rehabilitation outcomes (Johnston *et al.*, 2007). Cognition is both a rehabilitation outcome in itself (Sayer *et al.*, 2008) and a factor that is related to broader functional and community outcomes for individuals with a wide variety of disabling conditions (Van Baalen, Odding, & Stam, 2008; Hershkovitz *et al.*, 2007). Improved capacity to measure cognition is needed (Clohan *et al.*, 2007). Specifically, improved measures of cognition that can be applied across rehabilitation populations and settings are needed to improve clinical practice and to assess the effectiveness of rehabilitation interventions and programs. Current measures of cognition do not adequately capture the range of cognitive functions among individuals in medical rehabilitation settings (Hall *et al.*, 1999; Schepers *et al.*, 2006), and do not

always reflect abilities that are relevant to performing activities in the community (Donovan *et al.*, 2007).

The Symposium also identified the measurement of environmental factors associated with outcomes as a topic in need of further investigation. Environmental factors, such as staffing and care practices, differ across settings, and can influence rehabilitation treatments and outcomes. Examples of such settings are post-acute care settings, including rehabilitation facilities, skilled nursing facilities, long-term care hospitals, home health agencies, and outpatient settings.

As with the measurement of cognitive functioning, there has been an increase in the amount of research being conducted on the influence of environmental factors on medical rehabilitation outcomes in recent years. For example, research indicates that the environment in which people live is a prominent predictor of community integration (Reistetter & Abreu, 2005), and that environmental factors such as the reduction of physical barriers are associated with community participation outcomes for children and youth with acquired brain injuries discharged from inpatient rehabilitation (Bedell, 2004). This increasing evidence that environmental factors are associated with rehabilitation outcomes has led to calls for developing health-related quality of life measures for individuals with disabilities that consider environmental factors (Schwartz *et al.*, 2007).

There have been some international efforts pertaining to the measurement of the effects of the environment on rehabilitation outcomes. The Quebec Model for the Handicap Creation Process (Fougeyrollas, 1993) was the first disability-related taxonomy to offer a classification of environmental factors that influence rehabilitation outcomes. This taxonomy influenced the subsequent inclusion of environmental factors in the *International Classification of Functioning, Disability and Health* (ICF) (World Health Organization, 2001). The *Craig Hospital Inventory of Environmental Factors* (Craig Hospital Research Department, 2001) is a measurement tool designed to implement the ICF's environmental factors taxonomy, but is not specifically designed to assess differences across rehabilitation settings. Despite the current research and need in the field, state-of-the-art measures of cognition and of environmental factors for use across medical rehabilitation settings and subpopulations have not been developed.

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Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Research and Training Center (RRTC) on Measurement of Medical Rehabilitation Outcomes. This RRTC must create and implement state-of-the-art measures for medical rehabilitation outcomes and identify the cognitive and environmental factors that shape those outcomes. Under this priority, the RRTC must be designed to contribute to the following outcomes:

(a) New tools and measures that facilitate research to promote improved clinical practice in the field of medical rehabilitation. The RRTC must contribute to this outcome by developing valid and reliable measures of cognitive function for individuals who receive post-acute medical rehabilitation, as well as measures to assess environmental factors that affect outcomes among individuals with disabilities living in the community. The RRTC may also develop medical rehabilitation outcome measures in other areas where a demonstrated need has been identified in the literature. In order to promote efficient collection of outcomes data, this RRTC must develop and apply strategies including item response theory and computer-adaptive-testing techniques. Measures developed by the RRTC must be designed to improve the capacity of researchers and practitioners to measure medical rehabilitation outcomes in a wide variety of settings and across disability groups.

(b) Improved capacity to conduct rigorous medical rehabilitation outcomes research. The RRTC must contribute to this capacity by providing a coordinated and advanced program of training in medical rehabilitation research that is aimed at increasing the

number of qualified researchers working in the area of medical rehabilitation outcomes research. This program must focus on research methodology and outcomes measurement development, and provide for experience in conducting applied research.

(c) Collaboration with relevant projects, including NIDRR-sponsored projects, such as the Disability Rehabilitation Research Project on Classification and Measurement of Medical Rehabilitation Interventions, and other projects identified through consultation with the NIDRR project officer.

Proposed Priority 4—Developing Strategies to Foster Community Integration and Participation for Individuals with Traumatic Brain Injury

Background

The Centers for Disease Control and Prevention (CDC) report that at least 1.4 million individuals sustain a traumatic brain injury (TBI) in the United States each year (Langlois, Rutland-Brown, & Thomas, 2006). A substantial number of these individuals subsequently have low levels of community integration and participation (CIP) (Gordon *et al.*, 2006). CIP includes: assimilation (the ability to fit in with and be accepted by other individuals in the community); social support (being part of a network of family, friends, and acquaintances); occupation (having meaningful and productive activity during the main part of the day); and independent living (independence in daily tasks and in making everyday decisions and life choices) (Winkler, Unsworth, & Sloan, 2006).

Although the findings for CIP for individuals with TBI vary, research indicates that the unemployment rate among these individuals is 40 to 50 percent and the rate of social isolation for this group is 50 to 60 percent (Franulic, Carbonell, Pinto, & Sepulveda, 2004). Other long-term CIP consequences for individuals with TBI include financial dependence (Dikman, Machamer, & Temkin, 1993); divorce (Lezak, 1995); various forms of incarceration in places such as lockup care facilities, State hospitals, and prisons; and inability to perform instrumental activities of daily living such as driving a car, riding a bus, balancing a checkbook, and preparing meals.

Over the years, NIDRR has sponsored research to promote a methodological infrastructure that assists rehabilitation researchers in generating knowledge about the extent of CIP among individuals with TBI and the effectiveness of interventions to promote CIP for these individuals. For example, NIDRR recently funded an initiative to generate a classification system of medical rehabilitation interventions that will promote effective CIP research through improving the field's ability to determine the active ingredients of rehabilitative care and carry out effective intervention studies.

A TBI-specific classification system that categorizes individuals according to the physical characteristics of their injury was promoted by a 2007 workshop sponsored by the National Institute of Neurological Disorders and Stroke. This classification system will link physical characteristics of injuries to the brain, with appropriate medical and rehabilitation interventions (Saatman *et al.*, 2008). Still needed is a classification system based on symptoms experienced by individuals with TBI who are living in the community. This classification system can be used to link the post-rehabilitation consequences of TBI with CIP-oriented interventions. Such a classification will allow practitioners and researchers to better match individuals with TBI with specific interventions, and to better characterize their study samples. This classification will also advance CIP research by increasing comparability of findings across studies, and promoting the replicability and generalizability of findings.

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Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Research and Training Center (RRTC) for Developing Strategies to Foster Community Integration and Participation for Individuals with Traumatic Brain Injury (TBI). This RRTC must conduct rigorous research to examine barriers to and facilitators of community integration and participation (CIP) for individuals with TBI; provide training and technical assistance to promote and maximize the benefits of this research; develop and validate a symptom-based, clinically and scientifically useful system for classifying individuals with TBI after discharge from inpatient medical or rehabilitative care; and develop, implement, and evaluate interventions to improve long-term outcomes—including return to work—for individuals with TBI. Under this priority, the RRTC must be designed to contribute to the following outcomes:

(a) New knowledge about the full range of symptoms of TBI that are experienced by individuals with TBI at any time after they exit inpatient care and re-enter the community. The RRTC must contribute to this outcome by developing and empirically validating a comprehensive list of the symptoms of TBI that can exist after inpatient care and that have the potential to affect CIP, and provide or develop effective and practical methods for their identification. These symptoms include, but are not limited to, the following categories: neurological (*e.g.*, motor, sensory, autonomic functions, movement disorders, appearance, seizures, headaches, visual deficits, sleep disorders); medical (*e.g.*, pulmonary, metabolic, nutritional, gastrointestinal, musculoskeletal, dermatologic, degenerative disorders such as Parkinson's disease and Alzheimer's disease); cognitive (*e.g.*, memory, attention and concentration, language, perception, executive/front lobe functions, problem solving, abstract reasoning, poor insight, judgment, planning, information processing organizational skills); and behavioral (*e.g.*, aggression, agitation, impaired initiation, learning difficulties, impulsivity, social disinhibition, shallow self awareness, altered sexual

functioning, mood disorders such as depression).

(b) An improved research infrastructure for developing interventions that facilitate CIP for individuals with TBI. The RRTC must contribute to this outcome by—

(1) Developing a classification system for use with individuals with TBI based on the symptoms identified in paragraph (a) of this priority;

(2) Maximizing the likelihood that the classification system developed in (b)(1) of this priority will be adopted in TBI rehabilitation research and practice by: obtaining expert input in developing the classification system; conducting a comprehensive literature review to identify the barriers to CIP that are associated with the list of symptoms developed under paragraph (a) of this priority and the factors that tend to be effective in reducing these barriers; providing a practical validated ''short'' version of the classification system that can be used when there are time constraints; developing, field testing, and disseminating a comprehensive manual for using the classification system; and providing technical assistance to the public in the use of the manual.

(c) New interventions to improve the level of CIP for individuals with TBI. The RRTC must contribute to this outcome by identifying or developing, and then evaluating, specific interventions tied to the classification system developed under paragraph (b)(1) of this priority and the barriers identified in the literature review conducted under paragraph (b)(2) of this priority, to improve the CIP of individuals with TBI using scientifically-based research methods. These interventions must target individuals in specific categories of TBI as established by the classification system developed under paragraph (b)(1) of this priority, as well as the barriers to CIP identified pursuant to the literature review conducted under paragraph (b)(2) of this priority; and

(d) Improved levels of CIP for individuals with TBI. The RRTC must contribute to this outcome by—

(1) Developing a systematic plan for widespread dissemination of informational materials related to the Center's TBI classification system and associated interventions to researchers, individuals with TBI and their family members, clinical practitioners, service providers, and members of the community. The RRTC must work with its NIDRR project officer to coordinate outreach and dissemination of research findings through appropriate venues such as NIDRR's Model Systems Knowledge Translation Center, State agencies and programs that administer a range of disability services and resources, the U.S. Department of Veterans Affairs Veterans Health Administration, the U.S. Department of Defense, and related veterans' service organizations; and

(2) Establishing and maintaining mechanisms for providing technical assistance to critical stakeholders, such as researchers, consumers and their family members, clinical practitioners, service providers, and members of the community to facilitate the use of knowledge generated by the RRTC.

Rehabilitation Engineering Research Centers (RERCs)

General Requirements of RERCs

RERCs carry out research or demonstration activities in support of the Rehabilitation Act of 1973, as amended, by—

- Developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to: (a) Solve rehabilitation problems and remove environmental barriers; and (b) study and evaluate new or emerging technologies, products, or environments and their effectiveness and benefits; or
- Demonstrating and disseminating: (a) Innovative models for the delivery of cost-effective rehabilitation technology services to rural and urban areas; and (b) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; and
- Facilitating service delivery systems change through: (a) The development, evaluation, and dissemination of innovative consumer-responsive and individual- and family-centered models for the delivery to both rural and urban areas of innovative, cost-effective rehabilitation technology services; and (b) other scientific research to assist in meeting the employment and independence needs of individuals with severe disabilities.

Each RERC must be operated by, or in collaboration with, one or more institutions of higher education or one or more nonprofit organizations.

Each RERC must provide training opportunities, in conjunction with institutions of higher education or nonprofit organizations, to assist individuals, including individuals with disabilities, to become rehabilitation technology researchers and practitioners.

Each RERC must emphasize the principles of universal design in its product research and development. Universal design is ''the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design'' (North Carolina State University, 1997. *http://www.design.ncsu.edu/cud/about_ud/udprinciplestext.htm*).

Additional information on the RERCs can be found at: *http://www.ed.gov/rschstat/research/pubs/index.html*.

Proposed Priorities 5, 6, and 7—Rehabilitation Engineering Research Centers (RERCs) on Telerehabilitation (Priority 5), Telecommunication (Priority 6), and Cognitive Rehabilitation (Priority 7)

Proposed Priority 5—Telerehabilitation

Background

Telerehabilitation is the clinical application of consultative, preventative, diagnostic, and therapeutic interventions via two-way interactive audiovisual linkage performed in real time (Scheideman-Miller *et al.*, 2002). Telerehabilitation was primarily developed to provide equitable access to rehabilitative therapy for individuals who are geographically remote, and physically or economically disadvantaged (Theodoros & Russell, 2008). Telerehabilitation has the potential to improve rehabilitation care in a cost efficient manner. Results from Dhurjaty (2004) demonstrate that telerehabilitation is cost effective and benefits many stakeholders, such as rehabilitation providers, patients, and payers. Rehabilitation providers benefit from telerehabilitation because it gives them the ability to see and evaluate patients remotely. Remote access to patients allows providers to serve more people, thereby increasing their clinical productivity and efficiency. Patients benefit from telerehabilitation because they do not have to travel to remote clinics or rehabilitation facilities.

The use of image-based telerehabilitation (*e.g.*, videoconferencing); sensor-based telerehabilitation (*e.g.*, wearable sensors for monitoring health and activity); and virtual environments and virtual reality telerehabilitation (*e.g.*, immersive systems with haptic feedback), has resulted in advances in the fields of physical therapy, speech-language pathology, occupational therapy, and biomedical engineering (Russell, 2007; Theodoros & Russell, 2008). For 10 years, NIDRR has contributed to these advances by funding research and development in telerehabilitation. Recent outcomes from this NIDRR-

funded research and development include but are not limited to the following: new technologies to enhance a virtual reality telerehabilitation system that enables clients to assess the wheelchair accessibility of building environments (Yue, Kim, Wang, & Hamza, 2007); allowing occupational or physical therapy practitioners to provide wheeled mobility and seating interventions to clients in a remote location via interactive secure videoconferencing (Schein & Schmeler 2007); an evaluation and comparison of seven instant messenger (IM) systems and remote communication techniques for telerehabilitation use (Kim & Fuhrman, 2007); and an information technology infrastructure (*i.e.*, common applications and components that are generalizable across telerehabilitation applications such as web-conferencing, document sharing, and data sharing) to support telerehabilitation (Parmanto, Saptono, Sugiantara, Brienza & Nnaji, 2006).

Much of this work has been done on a small scale, and further work in this area is needed in order to realize the potential benefits of telerehabilitation on a larger scale. The viability of telerehabilitation services in real world environments with large patient cohorts and the broader issues of costs, benefits, and cost-effectiveness of telerehabilitation require investigation (Russell, 2007). In addition, there are issues relating to implementation costs, standards, ethics, and reimbursement that may affect the establishment and advancement of telerehabilitation within large health care systems and require further investigation (Feist-Price, 2002; Theodoros & Russell, 2008). Accordingly, NIDRR seeks to fund an RERC on Telerehabilitation to develop methods, systems, and technologies that support consultative, preventative, diagnostic, and therapeutic interventions in real time and to address barriers to successful telerehabilitation for individuals who have limited local access to comprehensive medical and rehabilitation outpatient services.

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Proposed Priority 6—Telecommunication

Background

Telecommunication is the extension of communication over a distance through the electronic transmission of signals. Internet Protocol (IP) technologies and emerging telecommunications technologies offer several modes of conversation, allow for multiple features in one device, and have the potential to enable phones to meet the distinct needs of individuals with disabilities (National Council on Disability, 2006). However, new telecommunications technologies must be designed to be accessible and usable by individuals with disabilities in order for these individuals to fully benefit from their use.

Access to telecommunications technologies by individuals with disabilities still remains a problem in 2009. To draw more world-wide attention to this issue, the International Telecommunication Union adopted the theme, ''Connecting Persons with Disabilities: Information and Communication Technologies (ICT) Opportunities for All,'' for last year's World Telecommunication and Information Society Day, May 17, 2008. In addition, the World Summit on the Information Society urged member States to address the special requirements of persons with disabilities in their national e-strategies and encouraged the design and production of ICT equipment and services suited to their needs.

For over 10 years, NIDRR has contributed to advances in telecommunications access, telecommunications standards development, and emergency notification and communications for individuals with disabilities. However, individuals with disabilities continue to face several barriers to telecommunications access, including the lack of interoperable communications—electronics systems or items, teletypewriter (TTY) compatibility issues, inaccessible interfaces, and inaccessible equipment (National Council on Disability, 2006). Better product engineering, increased industry and community partnerships, access to technology and IP, and implementation of standards may help to alleviate some of the access barriers to telecommunications systems and products. The use of universal design, i.e., products, services, and facilities that are designed from their inception to be accessible to and usable by the greatest range of individuals, regardless of their ability, and without the need for specialized adaptation, may help to ensure that access features are incorporated into telecommunications technologies from the outset (National Council on Disability, 2004). Integrating accessibility features into standards and maintaining them as the standards evolve over time may further ensure telecommunications access for individuals with disabilities (Jaeger, 2006). Accordingly, NIDRR seeks to fund an RERC on Telecommunication to research and develop technological solutions to promote universal access to telecommunications systems and products including strategies for integrating current accessibility features into newer generations of telecommunications systems and products.

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Proposed Priority 7—Cognitive Rehabilitation

Background

Cognitive disabilities affect more than 20 million individuals in the United States today (Scherer, 2005). The term ''cognitive disabilities'' describes a range of symptoms and conditions that are associated with intellectual functions and abilities such as difficulties in learning, memorizing, information processing, problem solving, communication, and the ability to adapt to environmental demands due to orientation difficulties, problems with recognizing and responding to social cues, and more. The underlying causes of cognitive disabilities are numerous and include developmental disabilities, acquired brain injuries, stroke, Alzheimer's disease, and severe mental illness (Bodine, 2005).

Individuals with cognitive disabilities need assistance with performing a wide range of tasks and activities in daily life. While such assistance is provided largely by family members and care givers, clinicians, researchers, and rehabilitation engineers are developing technological products and interventions that assist individuals with cognitive disabilities with learning, memorizing, communicating, performing tasks and activities at home and work, and getting around in the community (cognitive assistive technology). Cognitive assistive technology has become more affordable and more widespread, and NIDRR has contributed to the research and development of cognitive assistive technology for five years. Examples of this type of technology include learning software, handheld data assistants, user interfaces designed especially for individuals with cognitive disabilities, environmental control devices, and virtual reality technology (Lopresti *et al.*, 2004; Mechling, 2007). Anecdotal evidence and data from small-scale studies show a positive effect of cognitive assistive technology on learning, communication, independent living skills acquisition, and the performance of simple work-related tasks (Agran *et al.*, 2005; Man *et al.*, 2006; Riffel *et al.*, 2005). Larger, scaled-up studies are needed in the area of cognitive assistive technology. In addition, further work is needed to ensure that features of cognitive assistive technology that support individuals with disabilities are fully integrated and maintained in technology design and can be applied in vocational rehabilitation settings, career development programs, postsecondary education facilities, and places of work. Accordingly, NIDRR seeks to fund an RERC on Cognitive Rehabilitation to research, develop, and evaluate innovative technologies and approaches that will improve the ability of individuals with cognitive disabilities to function independently within their homes, communities, and workplaces.

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Proposed Priorities

The Assistant Secretary for Special Education and Rehabilitative Services proposes the following three priorities for the establishment of (a) an RERC on Telerehabilitation; (b) an RERC on Telecommunication; and (c) an RERC on Cognitive Rehabilitation. Within its designated priority research area, each RERC will focus on innovative technological solutions, new knowledge, and concepts that will improve the lives of individuals with disabilities.

(a) *RERC on Telerehabilitation (Priority 5).* Under this priority, the RERC must conduct research on and develop methods, systems, and technologies that support consultative, preventative, diagnostic and therapeutic interventions in real time and address the barriers to successful telerehabilitation for individuals who have limited local access to comprehensive medical and rehabilitation outpatient services. The RERC must contribute to the continuing development of a telerehabilitation infrastructure and architecture, conduct research and development projects on technologies that can be used to deliver telerehabilitation services, address the barriers to successful telerehabilitation to individuals who have limited access to rehabilitation services, participate in the development of telerehabilitation standards, and contribute, by means of research and development, to the use of telerehabilitation on a larger scale.

(b) *RERC on Telecommunication (Priority 6).* Under this priority, the RERC must research and develop technological solutions to promote universal access to telecommunications systems and products, including strategies for integrating current accessibility features into newer generations of telecommunications systems and products. The RERC must contribute to the continuing development of interoperable telecommunications systems, items, and assistive technologies; conduct research and development projects that enable access to emerging telecommunications technologies; address the barriers to successful telecommunication, including emergency communications access; and participate in the development of telecommunications standards.

(c) *RERC on Cognitive Rehabilitation (Priority 7).* Under this priority, the RERC must research and develop methods, systems, and technologies that

will improve: existing assistive technology for cognition; the integration of assistive technology for cognition into assistive technology design; and the application of this technology in vocational rehabilitation settings, career development programs, postsecondary education facilities, and places of work. The RERC must contribute to the development and testing of assistive technology products that enhance cognitive functions needed to perform daily tasks and activities at home, school, work, and in the community; and to the development, testing, and implementation of cognitive assistive technology training programs and materials for professional use as well as for consumer use.

RERC Requirements

Under each priority, the RERC must be designed to contribute to the following outcomes:

(1) Increased technical and scientific knowledge base relevant to its designated priority research area. The RERC must contribute to this outcome by conducting high-quality, rigorous research and development projects.

(2) Innovative technologies, products, environments, performance guidelines, and monitoring and assessment tools applicable to its designated priority research area. The RERC must contribute to this outcome through the development and testing of these innovations.

(3) Improved research capacity in its designated priority research area. The RERC must contribute to this outcome by collaborating with the relevant industry, professional associations, and institutions of higher education.

(4) Improved focus on cutting edge developments in technologies within its designated priority research area. The RERC must contribute to this outcome by identifying and communicating with NIDRR and the field regarding trends and evolving product concepts related to its designated priority research area.

(5) Increased impact of research in the designated priority research area. The RERC must contribute to this outcome by providing technical assistance to public and private organizations, individuals with disabilities, and employers on policies, guidelines, and standards related to its designated priority research area.

(6) Increased transfer of RERC-developed technologies to the marketplace. The RERC must contribute to this outcome by developing and implementing a plan for ensuring that all technologies developed by the RERC are made available to the public. The technology transfer plan must be developed in the first year of the project period in consultation with the NIDRR-funded Disability Rehabilitation Research Project, Center on Knowledge Translation for Technology Transfer.

In addition, under each priority, the RERC must—

- Have the capability to design, build, and test prototype devices and assist in the transfer of successful solutions to relevant production and service delivery settings;
- Evaluate the efficacy and safety of its new products, instrumentation, or assistive devices;
- Provide as part of its proposal, and then implement, a plan that describes how it will include, as appropriate, individuals with disabilities or their representatives in all phases of its activities, including research, development, training, dissemination, and evaluation;
- Provide as part of its proposal, and then implement, in consultation with the NIDRR-funded National Center for the Dissemination of Disability Research (NCDDR), a plan to disseminate its research results to individuals with disabilities, their representatives, disability organizations, service providers, professional journals, manufacturers, and other interested parties;
- Conduct a state-of-the-science conference on its designated priority research area in the fourth year of the project period, and publish a comprehensive report on the final outcomes of the conference in the fifth year of the project period; and
- Coordinate research projects with other relevant projects, including NIDRR-funded projects, as identified through consultation with the NIDRR project officer.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priorities: We will announce the final priorities in one or more notices in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one of more of these priorities, we invite applications through a notice in the **Federal Register**.

Executive Order 12866: This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priorities justify the costs.

Discussion of costs and benefits:

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years in that similar projects have been completed successfully. These proposed priorities will generate new knowledge and technologies through research, development, dissemination, utilization, and technical assistance projects.

Another benefit of these proposed priorities is that the establishment of new RRTCs and new RERCs will improve the lives of individuals with disabilities. The RRTCs and RERCs will generate, disseminate, and promote the use of new information that will improve the options for individuals with disabilities to perform regular activities in the community.

Intergovernmental Review:

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in

an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202–2550. *Telephone:* (202) 245–7363. If you use a TDD, call the FRS, toll-free, at 1–800–877–8339.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Delegation of Authority: The Secretary of Education has delegated authority to Andrew J. Pepin, Executive Administrator for the Office of Special Education and Rehabilitative Services to perform the functions of the Assistant Secretary for Special Education and Rehabilitative Services.

Dated: May 4, 2009.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. E9–10653 Filed 5–6–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC09–725–001]

Commission Information Collection Activities (FERC–725); Comment Request; Submitted for OMB Review

April 30, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to the **Federal Register** notice (74FR 6861, 2/11/2009) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by June 5, 2009.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira__submission@omb.eop.gov* and include OMB Control Number 1902–0225 as a point of reference. The Desk Officer may be reached by telephone at 202–395–4638.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission and should refer to Docket No. IC09–725–001. Comments may be filed either electronically or in paper format. Those persons filing electronically do not need to make a paper filing. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at *http://www.ferc.gov/help/submission-guide/electronic-media.asp*. To file the document electronically, access the Commission's Web site and click on Documents & Filing, E-Filing (*http://www.ferc.gov/docs-filing/efiling.asp*), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

For paper filings, an original and 2 copies of the comments should be submitted to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426, and should refer to Docket No. IC09–725–001.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the ''eLibrary'' link. For user assistance, contact *fercolinesupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by telephone at (202) 502–8663, by fax at (202) 273–0873, and by e-mail at *ellen.brown@ferc.gov.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–725 (''Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards'' (OMB Control No. 1902–0225)) is used by the Commission to implement the statutory provisions of Title XII, subtitle A of the Energy Policy Act of 2005 (EPAct 2005).[1]

The Electricity Modernization Act of 2005 was enacted into law as part of the Energy Policy Act of 2005 on August 8, 2005. Subtitle A of the Electricity Modernization Act amended the Federal Power Act (FPA) by adding a new section 215, titled ''Electric Reliability.'' Section 215 of the FPA buttresses the Commission's efforts to strengthen the reliability of the interstate grid through the granting of new authority to provide for a system of mandatory Reliability Standards developed by the Electric Reliability Organization (ERO)[2] and reviewed and approved by FERC.

On February 3, 2006, the Commission issued Order No. 672[3] certifying a single Electric Reliability Organization (ERO) to oversee the reliability of the United States' portion of the interconnected North American Bulk-Power System, subject to Commission oversight. The Reliability Standards apply to all users, owners and operators of the Bulk-Power System. The Commission has the authority to: (1) Approve all ERO actions, (2) order the ERO to carry out its responsibilities under these statutory provisions, and (3), as appropriate, independently enforce Reliability Standards.

Once certified, the ERO must submit each proposed Reliability Standard to the Commission for approval. Only a Reliability Standard approved by the Commission is enforceable under section 215 of the FPA.

The ERO may delegate its enforcement responsibilities to a

[1] Energy Policy Act of 2005, Public Law 109–58, 119 Stat. 594 (2005) (codified at 42 U.S.C. 16451, *et seq.*)

[2] ''Electric Reliability Organization'' or ''ERO'' means the organization (certified by the Commission) established for the purpose of developing and enforcing Reliability Standards for the Bulk-Power System, subject to Commission review.

[3] Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards ¶ 31,204 71 FR 8662 (2006) *Order on reh'g,* 71 FR 19,814 (2006), FERC Statutes and Regulations ¶ 31,212 (2006).

Regional Entity (RE). Delegation is effective only after the Commission approves the delegation agreement. A Regional Entity may also propose a Reliability Standard to the ERO for submission to the Commission for approval. This Reliability Standard may be either for application to the entire interconnected Bulk-Power System or for application only within its own region.

The ERO or a Regional Entity must monitor compliance with the Reliability Standards. It will direct a user, owner or operator of the Bulk-Power System that violates a Reliability Standard to comply with the Reliability Standard. The ERO or Regional Entity may impose a penalty on a user, owner or operator for violating a Reliability Standard, subject to review by, and appeal to, the Commission.

Subtitle A of the Electricity Modernization Act of 2005 also includes two reliability-related provisions that are not part of section 215 of the FPA. Section 1211(b) of the Act provides that the ERO certified by the Commission, as well as Regional Entities, are not departments, agencies or instrumentalities of the United States Government. Section 1211(c) provides that federal agencies responsible for approving access to electric transmission or distribution facilities located on lands within the United States will, in accordance with applicable law, expedite any federal agency approvals that are necessary to allow the owners or operators of these facilities to comply with a FERC-approved Reliability Standard that pertains to vegetation management, electric service restoration, or resolution of situations that imminently endanger the reliability or safety of the facilities.

Order No. 672 set forth the criteria that an ERO applicant must satisfy to qualify as the ERO, including the ability to develop and enforce Reliability Standards.[4] The ERO submission must include an evaluation of the effectiveness of each Regional Entity. The Commission will, as part of its assessment of the ERO's performance, assess the performance of each Regional Entity and issue an order addressing Regional Entity compliance. If a Regional Entity fails to comply adequately with the Commission order, the Commission may institute a proceeding to enforce its order, including, if necessary and appropriate, a proceeding to consider rescission of the Commission's approval of the Regional Entity's delegation agreement.

The Electricity Modernization Act of 2005 buttresses the Commission's efforts to strengthen the interstate transmission grid through the granting of authority pursuant to section 215 of the FPA which provides for a system of mandatory reliability rules developed by the ERO, established by the Commission, and enforced by the Commission, subject to Commission review.

A submission of the information is necessary for the Commission to carry out its responsibilities under EPAct 2005.[5] The Commission implements its responsibilities through the Code of Federal Regulations, 18 CFR Part 39. These filing requirements are mandatory.

Action: The Commission is requesting a three-year extension of the current expiration date, with no change to the existing reporting requirements in 18 CFR Part 39.

Burden Statement: Based on additional information from the ERO and staff, the burden and cost estimates provided in the 60-day Notice have been revised. The estimated annual public reporting burden and cost for FERC–725 follow.

FERC–725[6]			FTE	Est. annual burden (hrs.)	Est. annual cost ($)
Annual Costs for NERC (ERO).	3 Year Self Assessment (Due 7/09)[7]	Contractor	[7] 3.33	[7] 3,266.67	[7] $350,000
	Reliability Reporting Estimate[8]	Internal	1.5	2,940	210,663
	Estimate	Software	0	0	75,000
	Audits, spot checks, self certifications, periodic data submittals, investigations, & mitigation plan confirmation (under 18 CFR 39.11)[8].			41,437	2,797,821
Total Est. Annual Costs for NERC (ERO)			4.83	47,643.67	3,433,484
Annual Costs[9] for Regional Entities (RE).	Reliability Reporting Estimate	Internal	4.5	8,820	519,840
	Estimate	Software	0	0	225,000
	Audits, spot checks, self certifications, periodic data submittals, investigations, & mitigation plan confirmation (under 18 CFR 39.11)[9].			208,060	11,555,332
Total Est. Annual Costs for Regional Entities			4.5	216,880	12,300,172
Annual Costs for Registered Entities[10].	Audits, spot checks, self certifications, periodic data submittals, investigations, & mitigation plan confirmation (under 18 CFR 39.11).			707,781	43,656,818
Total Est. Annual Costs for Registered Entities			9.33	707,781	43,656,818

[4] The criteria stated in the Final Rule track the statutory criteria for ERO certification provided in section 215(c) of the FPA.

[5] 42 U.S.C. 16451 *et seq.*

[6] The burden and cost estimates do not include the cost of applying to become the ERO because that application process and the resulting FERC selection have been completed.

The burden and cost estimates for FERC–725 do not include compliance with the Reliability Standards. The reporting requirements (and the associated burden and cost) related to the Reliability Standards are cleared separately in other collections, including: FERC–725A (Mandatory Reliability Standards for the Bulk-Power System; OMB No. 1902–0244), FERC–725B (Mandatory Reliability Standards for Critical Infrastructure Protection; OMB No. 1902–0248), FERC–725D (Facilities Design, Connections and Maintenance Reliability Standards; OMB No. 1902–0247), FERC–725E (Mandatory Reliability Standards for the Western Electric Coordinating Council; OMB No. 1902–0246), and FERC–725F (Mandatory Reliability Standard for Nuclear Plant Interface Coordination; OMB No. 1902–0249). This Notice requests comments on only the FERC–725.

FERC–725 [6]			FTE	Est. annual burden (hrs.)	Est. annual cost ($)
Total Estimated Annual Burden & Cost				972,304.67	59,390,474

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–10518 Filed 5–6–09; 8:45 am]

BILLING CODE 6717–01–P

[7] Per Order 672, the ERO will undergo a performance assessment three years after certification (July 2009) and every five years thereafter. Therefore, the total figures for FTE (10), burden hrs. (9,800), and cost ($1,050,000) associated with doing the self-assessment have been divided by 3 to provide average annual figures for this notice.

The methodology for estimating the totals for the 3-year self assessment follows. Staff estimates that the self assessment will take 6 months to complete. In order for NERC to complete the work in half the time, we assume that NERC must hire double the workforce, so 10 contractors are used in the present calculation. The $1,050,000 was taken directly from NERC's 2009 Business Plan and Budget.

[8] NERC Employee Cost Estimate: NERC Employee Compensation Average is $140,442 (from 2009 Budget salary average). For 1.5 Employees, the Annualized Salary Expense is $210,663.

[9] Regional Entity (RE) Employee Cost Estimate: RE Employee Compensation Average of $115,520 (from 2009 Budget salary average). For 4.5 Employees, the Annualized Salary Expense is $519,840.

[10] The average employee works 2,080 hours per year. The estimated average annual cost per employee is $128,297.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP09–161–000; PF08–23–000]

Bison Pipeline LLC; Notice of Application

April 30, 2009.

Take notice that on April 20, 2009, Bison Pipeline LLC (Bison), 13710 FNB Parkway, Omaha, Nebraska 68154 filed in the above referenced docket an application pursuant to section 7(c) of the NGA and part 157 of the Commission's regulations, for a certificate of public convenience and authorizing the construction, ownership and operation of a new pipeline, a new compressor station and other appurtenant facilities designed to transport approximately 477 million cubic feet per day (MMcf/day) from the Dead Horse region near Gillette, Wyoming to an interconnection with Northern Border Pipeline Company near Compressor Station No. 6 located in Morton County, North Dakota, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Specifically, Bison proposes approximately 302 miles of 30-inch diameter pipeline, one 4,700 horsepower compressor station, two meter stations and other appurtenant facilities designed to move 477 MMcf/d of natural gas. As a new pipeline company, Bison also requests blanket certificates pursuant to sections 284.211 and 157.204 of the Commission's regulations as well as approval of its attached Pro Forma Tariff. Bison states that the project will cost an estimated $609.6 million and the proposed in-service date of the facilities is November 15, 2010.

Any questions regarding the application are to be directed to Bambi Heckerman, Agent and Attorney-in-Fact, TransCanada Northern Border Inc., 13710 FNB Parkway, Omaha, NE 68154–5200, phone (402) 492–7575 or by fax (402) 492–7492.

On June 4, 2008, the Commission staff granted Bison's request to utilize the Pre-Filing Process and assigned Docket No. PF08–23–000 to staff activities involving the Bison Pipeline Project. Now as of the filing the April 20, 2008 application, the Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP09–161–000, as noted in the caption of this Notice.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and

must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: May 21, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–10517 Filed 5–6–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13–023]

Green Island Power Authority; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 30, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New major license.

b. *Project No.:* 13–023.

c. *Date Filed:* March 2, 2009.

d. *Applicant:* Green Island Power Authority.

e. *Name of Project:* Green Island Hydroelectric Project.

f. *Location:* The existing project is located on the Hudson River in Albany County, New York. The project would occupy Federal land managed by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Agent Contact:* James A. Besha, President, Albany Engineering Corporation, 5 Washington Square, Albany, NY 12205; (518) 456–7712.

i. *FERC Contact:* Tom Dean, (202) 502–6041.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene and protests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. This application has been accepted for filing, but is not ready for environmental analysis at this time.

l. *Project Description:* The existing Green Island Project utilizes the U.S. Army Corps of Engineers (Corps) Green Island-Troy lock and dam that consists of: (1) A dam with a main spillway with a fixed crest elevation of 14.33 feet mean sea level (msl); and (2) an auxiliary spillway with a crest elevation of 16.33 feet msl.

The Green Island Project consists of: (1) 2-foot-high pneumatic flashboards along the top of the main spillway with a crest elevation of 16.33 feet msl; (2) a 700-acre impoundment with a normal water surface elevation of 16.33 feet msl; (3) a bulkhead and forebay structure located downstream and at the west end of the Corps dam; (4) a powerhouse containing four 1.5 megawatt (MW) generating units with a total installed capacity of 6.0 MW; (5) a 34.5 kilovolt underground transmission cable; and (6) appurtenant facilities.

Green Island Power Authority proposes to: (1) Lower the existing main spillway to a crest elevation of 12.5 feet msl, and install new hydraulically operated crest gates with a maximum crest gate elevation of 18.5 feet msl; (2) install a new trash boom extending across and upstream of the forebay; (3) construct a new bulkhead structure equipped with a new 300-foot-wide, 300-foot-long fish protection system screen; and (4) expand the existing powerhouse to the east and west and install four new 6.0 MW generating units, and replace the four existing generating units with four new 6.0 MW generating units with a total installed capacity of 48 MW.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects.

For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must: (1) Bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE''; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

o. *Procedural Schedule:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice Ready for Environmental Analysis.	September 1, 2009.
Filing comments, recommendations, preliminary terms and conditions, and fishway prescriptions.	October 30, 2009.
Notice of availability of the EA.	March 1, 2010.
Filing comments on EA	April 1, 2010.
Filing modified terms and conditions.	June 1, 2010.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–10516 Filed 5–6–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

April 29, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP09–404–001.
Applicants: Equitrans, L.P.
Description: Responses to the data requests submitted by Equitrans, LP of the Commission in its Letter Order dated March 30, 2009.
Filed Date: 04/28/2009.
Accession Number: 20090428–5171.
Comment Date: 5 p.m. Eastern Time on Monday, May 11, 2009.

Docket Numbers: RP09–409–001.
Applicants: Cimarron River Pipeline, LLC.
Description: Cimarron River Pipeline, LLC submits Substitute Second Revised Sheet No 17 to FERC Gas Tariff, Original Volume No 1, to be effective 4/1/09.
Filed Date: 04/23/2009.
Accession Number: 20090424–0140.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 5, 2009.

Docket Numbers: RP09–500–001.
Applicants: Florida Gas Transmission Company, LLC.
Description: Florida Gas Transmission Company, LLC submits Sub. First Revised Sheet No. 261 to its FERC Gas Tariff, Fourth Revised 1, to be effective 5/4/09.
Filed Date: 04/24/2009.
Accession Number: 20090424–0121.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 6, 2009.

Docket Numbers: RP09–507–001.
Applicants: Chandeleur Pipe Line Company.
Description: Chandeleur Pipe Line Company forwards a CD labeled TF9700905 containing Second Revised Sheet 74, superseding Original Sheet 74 to the FERC Gas Tariff, Second Revised Volume 1.
Filed Date: 04/23/2009.
Accession Number: 20090424–0141.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 5, 2009.

Docket Numbers: RP09–530–001.
Applicants: Northwest Pipeline GP.
Description: Northwest Pipeline, GP submits First Revised Sheet 302B *et al* to FERC Gas Tariff, Fourth Revised Volume 1.
Filed Date: 04/27/2009.
Accession Number: 20090428–0043.
Comment Date: 5 p.m. Eastern Time on Monday, May 11, 2009.

Docket Numbers: RP09–541–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Transcontinental Gas Pipe Line Company, LLC submits Third Revised Sheet 27 to its FERC Gas Tariff, Fourth Revised Volume 1, to be effective 5/1/09.
Filed Date: 04/23/2009.
Accession Number: 20090424–0142.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 5, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or

call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–10484 Filed 5–6–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

April 28, 2009.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP09–542–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: Trailblazer Pipeline Company LLC submits report to inform the Commission of penalty revenues it has received in the quarter ended 3/31/09.

Filed Date: 04/24/2009.

Accession Number: 20090424–0123.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 6, 2009.

Docket Numbers: RP09–543–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: Midcontinent Express Pipeline LLC submits amendments to existing negotiated rate Transmission Rate Schedule FTS Agreements between etc.

Filed Date: 04/24/2009.

Accession Number: 20090424–0124.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 6, 2009.

Docket Numbers: RP09–544–000.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits First Revised Sheet 5 *et al.* to its FERC Gas Tariff, Third Revised Volume 1.

Filed Date: 04/27/2009.

Accession Number: 20090427–0154.

Comment Date: 5 p.m. Eastern Time on Monday, May 11, 2009.

Docket Numbers: RP09–545–000.

Applicants: Black Marlin Pipeline Company.

Description: Black Marlin Pipeline Company Annual Cash-Out Report.

Filed Date: 04/27/2009.

Accession Number: 20090427–5097.

Comment Date: 5 p.m. Eastern Time on Monday, May 11, 2009.

Docket Numbers: RP09–546–000.

Applicants: Discovery Gas Transmission LLC.

Description: Report of Discovery Gas Transmission LLC.

Filed Date: 04/27/2009.

Accession Number: 20090427–5102.

Comment Date: 5 p.m. Eastern Time on Monday, May 11, 2009.

Docket Numbers: GP94–2–018.

Applicants: Columbia Gas Transmission, LLC.

Description: Columbia Gas Transmission, LLC's Deferred Tax Refund Report.

Filed Date: 04/23/2009.

Accession Number: 20090423–5130.

Comment Date: 5 p.m. Eastern Time on Wednesday May 6, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–10485 Filed 5–6–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

April 28, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–2948–016; ER00–2917–015; ER00–2918–015; ER01–1654–017; ER01–556–014; ER05–261–008; ER02–2567–015; ER05–728–008; ER04–485–000; ER07–244–007; ER07–245–007; ER07–247–007.

Applicants: Baltimore Gas and Electric Company; Calvert Cliffs Nuclear Power Plant, Inc.; Constellation Power Source Generation Inc.; Nine Mile Point Nuclear Station, Constellation Energy Commodities Group LLC; Constellation NewEnergy, Inc.; Constellation Energy Commodities Group Maine, LLC; R.E. Ginna Nuclear Power Plant, LLC; Raven One, LLC, Raven Two, LLC, Raven Three, LLC.

Description: Constellation MBR Entities submits a supplement to their Joint Triennial Market Power Update for the Southeast Region and Notice of Change in Status filed on 12/30/08 pursuant to Order 697–A.

Filed Date: 04/22/2009.

Accession Number: 20090424–0005.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 13, 2009.

Docket Numbers: ER07–22–001.

Applicants: Jump Power, LLC.

Description: Jump Power, LLC submits the revised Table of Assets for Market-Based Rate Authority and Generation Assets.

Filed Date: 04/23/2009.

Accession Number: 20090424–0006.

Comment Date: 5 p.m. Eastern Time on Thursday, May 14, 2009.

Docket Numbers: ER08–1569–002.

Applicants: PJM Interconnection L.L.C.

Description: PJM Interconnection, L.L.C. submits its Report to inform the Commission of PJM's review of the impact of the implementation of its Balancing Operating Reserve Cost Allocation method on market and system operations etc.

Filed Date: 04/20/2009.
Accession Number: 20090420–4004.
Comment Date: 5 p.m. Eastern Time on Monday, May 11, 2009.

Docket Numbers: ER09–1025–000.
Applicants: New England Gas & Electric, Inc.
Description: New England Gas & Electric, Inc. submits FERC Electric Tariff, Original Volume 1.
Filed Date: 04/24/2009.
Accession Number: 20090427–0153.
Comment Date: 5 p.m. Eastern Time on Friday, May 15, 2009.

Docket Numbers: ER09–1035–000.
Applicants: Yankee Atomic Electric Company.
Description: Petition for waiver of tariff provision re Yankee Atomic Electric Company.
Filed Date: 04/23/2009.
Accession Number: 20090424–0145.
Comment Date: 5 p.m. Eastern Time on Thursday, May 14, 2009.

Docket Numbers: ER09–1036–000.
Applicants: Connecticut Yankee Atomic Power Company.
Description: Connecticut Yankee Atomic Power Company's Petition for waiver of tariff provision.
Filed Date: 04/23/2009.
Accession Number: 20090424–0144.
Comment Date: 5 p.m. Eastern Time on Thursday, May 14, 2009.

Docket Numbers: ER09–1037–000.
Applicants: Wisconsin Power and Light Company.
Description: Application of Wisconsin Power and Light Company; Preliminary Survey and Investigation Costs for Proposed Nelson Dewey Generating Facility Unit 3.
Filed Date: 04/24/2009.
Accession Number: 20090424–5068.
Comment Date: 5 p.m. Eastern Time on Friday, May 15, 2009.

Docket Numbers: ER09–1039–000.
Applicants: Southwest Power Pool, Inc.
Description: Southern Power Pool, Inc submits for acceptance Third Revised Sheet 226 *et al* to its FERC Electric Tariff, Fifth Revised Volume 1.
Filed Date: 04/24/2009.
Accession Number: 20090427–0070.
Comment Date: 5 p.m. Eastern Time on Friday, May 15, 2009.

Docket Numbers: ER09–1040–000.
Applicants: PJM Interconnection L.L.C.
Description: PJM Interconnection, LLC submits Original Service Agreement 2174 to its FERC Electric Tariff, Sixth Revised Volume 1.
Filed Date: 04/24/2009.
Accession Number: 20090427–0071.
Comment Date: 5 p.m. Eastern Time on Friday, May 15, 2009.

Docket Numbers: ER09–1041–000.
Applicants: PJM Interconnection L.L.C.
Description: PJM Interconnection, LLC submits First Revised Service Agreement 1756 *et al* to its FERC Electric Tariff, Sixth Revised Volume 1.
Filed Date: 04/24/2009.
Accession Number: 20090427–0072.
Comment Date: 5 p.m. Eastern Time on Friday, May 15, 2009.

Docket Numbers: ER09–1042–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool submits for acceptance First Revised Sheet 9 *et al* to its FERC Electric Tariff, Fifth Revised Volume 1.
Filed Date: 04/24/2009.
Accession Number: 20090427–0073.
Comment Date: 5 p.m. Eastern Time on Friday, May 15, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–111–001.
Applicants: Portland General Electric Company.
Description: Portland General Electric Year 2008 Annual Informational Filing on Operational Penalty Assessments and Distributions as Required by Order Nos. 890 and 890–A.
Filed Date: 04/24/2009.
Accession Number: 20090424–5130.
Comment Date: 5 p.m. Eastern Time on Friday, May 15, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E9–10486 Filed 5–6–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–82–001]

El Paso Natural Gas Company; Notice of Petition To Amend

April 30, 2009.

Take notice that on March 20, 2009, El Paso Natural Gas Company (El Paso), P.O. Box 1087, Colorado Springs, Colorado 80944, filed a petition to amend the order issued May 5, 2005, in Docket Number CP05–82–000, pursuant to Rules 207 and 2001, *et seq.*, of the Commission's Rules of Practice and Procedure. Specifically, El Paso seeks amended authorization to remove all previously abandoned aboveground facilities at its Gila Compressor Station, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–3676 or TYY, (202) 502–8659.

Any questions regarding the petition should be directed to Richard

Derryberry, Director, Regulatory Affairs, El Paso Natural Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944, phone (719) 520–3782 or fax (719) 667–7534.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: May 21, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–10519 Filed 5–6–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R06–OAR–2009–0202; FRL–8902–2]

Adequacy Status of the Crittenden County, AR Maintenance Plan 8-Hour Ozone Motor Vehicle Emission Budgets for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: EPA is notifying the public that it has found that the motor vehicle emissions budgets (MVEBs) in the Crittenden County, Arkansas Redesignation Request/Maintenance Plan State Implementation Plan (SIP) revision, submitted on February 24, 2009 and supplemented on March 6, 2009, by the Arkansas Department of Environmental Quality (ADEQ) are adequate for transportation conformity purposes. As a result of EPA's finding, Crittenden County must use these MVEBs for future conformity determinations for the 1997 8-hour ozone standard.

DATES: These MVEBs are effective May 22, 2009.

FOR FURTHER INFORMATION CONTACT: Jeffrey Riley, Air Planning Section, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Mr. Riley can also be reached by telephone at (214) 665–8542, or via electronic mail at *riley.jeffrey@epa.gov*. The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm*.

SUPPLEMENTARY INFORMATION: This notice is simply an announcement of a finding that EPA has already made. EPA Region 6 sent a letter to ADEQ on April 20, 2009, stating that the MVEBs in the Crittenden County Redesignation Request/Maintenance Plan SIP, submitted on February 24, 2009 and supplemented on March 6, 2009, are adequate for the Crittenden County, Arkansas portion of the Memphis, Tennessee 1997 8-hour ozone nonattainment area and must be used for transportation conformity determinations in Crittenden County. The bi-state Memphis, Tennessee 8-hour ozone nonattainment area (Area) is comprised of the following counties: Crittenden in Arkansas, and Shelby in Tennessee. Arkansas' Redesignation Request/Maintenance Plan submittal addresses only MVEBs for the Arkansas portion of this Area. The MVEBs for the Tennessee portion of this Area are addressed in a separate submittal provided by Tennessee. EPA is addressing the adequacy of the Tennessee MVEBs through a separate notice. EPA posted the availability of the Crittenden County budgets on EPA's Web site on March 11, 2009, as part of the adequacy process, for the purpose of soliciting comments. The comment period for the Arkansas submittal ran from March 11, 2009, through April 10, 2009. During EPA's adequacy comment period, no adverse comments were received on the Crittenden County on-road MVEBs. This finding has also been announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/pastsips.htm*.

The adequate MVEBs are provided in the following table:

CRITTENDEN COUNTY, AR 8-HOUR OZONE MVEBS

[Tons per day]

Year	NO_X	VOC
2006	6.27	2.95
2021	1.84	1.39

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule, 40 Code of Federal Regulations (CFR) part 93, requires that transportation plans, programs and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do so. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which EPA determines whether a SIP's MVEBs are adequate for transportation conformity purposes are outlined in 40 CFR 93.118(e)(4). We have also described the process for determining the adequacy of submitted SIP budgets in our July 1, 2004, final rulemaking entitled, ''Transportation Conformity Rule Amendments for the New 8-hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes'' (69 FR 40004). Please note that an adequacy review is separate from EPA's completeness review, and it should not be used to prejudge EPA's ultimate approval of the Crittenden County Maintenance Plan SIP revision submittal. Even if EPA finds a budget adequate, the Maintenance Plan SIP revision submittal could later be disapproved.

Within 24 months from the effective date of this notice, the transportation partners will need to demonstrate conformity to the new MVEBs if the demonstration has not already been made, pursuant to 40 CFR 93.104(e). See, 73 FR 4419 (January 24, 2008).

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

Dated: April 29, 2009.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. E9–10654 Filed 5–6–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8900–1]

Draft EPA Region 4 National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges From Construction Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed permit issuance.

SUMMARY: EPA Region 4 today is proposing for public comment the issuance of its 2009 National Pollutant Discharge Elimination System general permit for stormwater discharges on Indian Country Lands within the states of Region 4 from new dischargers engaged in large and small construction activities. Hereinafter, this NPDES general permit will be referred to as ''permit'' or ''2009 construction general permit'' or ''2009 CGP.'' ''New dischargers'' are those who did not file a notice of intent (''NOI'') to be covered under the 2004 construction general permit (''2004 CGP'') before it expired. Existing dischargers who properly filed an NOI to be covered under the 2004 CGP continue to be authorized to discharge under that permit according to its terms. This draft 2009 CGP contains generally the same limits and conditions as the National CGP issued by other EPA regions on July 30, 2008 (''2008 National CGP''). As proposed, EPA Region 4 is issuing this CGP for a period not to exceed two (2) years and will make the permit available to new construction activities and unpermitted ongoing activities only.

DATES: Comments on EPA Region 4's proposal, including the draft permit, must be postmarked by June 14, 2009.

ADDRESSES: Persons wishing to comment on any aspects of this permit reissuance or wishing to request a public hearing are invited to submit their comments or hearing requests in writing within thirty (30) days of this notice to the Water Protection Division, Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, Attention: Alanna Conley.

Instructions: A copy of the draft 2009 CGP and its accompanying fact sheet is available at *http://www.epa.gov/region4/water/permits/stormwater.html.* EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through e-mail. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: The proposed NPDES general permit, fact sheet and other relevant documents are on file and may be inspected any time between 9 a.m. and 4 p.m., Monday through Friday at the address shown above. Copies of these documents may be obtained by writing the above address or by calling Alanna Conley at (404) 562–9443. In addition, copies of the proposed permit and fact sheet may be downloaded at *http://www.epa.gov/region4/water/permits/stormwater.html.*

For any questions, please contact Alanna Conley, telephone number: (404) 562–9443, or at the following address: Water Protection Division, Stormwater and Nonpoint Source Section, Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, or by fax at (404) 562–9224.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

The 2009 CGP would potentially apply to the following construction activities:

Category	Examples of affected entities	North American Industry Classification System (NAICS) Code
Industry	Construction site operators disturbing 1 or more acres of land, or less than 1 acre but part of a larger common plan of development or sale if the larger common plan will ultimately disturb 1 acre or more, and performing the following activities:	

Category	Examples of affected entities	North American Industry Classification System (NAICS) Code
	Building, Developing and General Contracting	233
	Heavy Construction	234

EPA does not intend the preceding table to be exhaustive, but provides it as a guide for readers regarding entities likely to be regulated by this action. This table lists the types of activities that EPA is now aware of that could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the definition of ''construction activity'' and ''small construction activity'' in existing EPA regulations at 40 CFR 122.26(b)(14)(x) and 122.26(b)(15), respectively. If you have questions regarding the applicability of this action to a particular entity, consult the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Eligibility for coverage under the 2009 CGP would be limited to operators of ''new projects'' or ''unpermitted ongoing projects.'' A ''new project'' is one that commences after the effective date of the 2009 CGP. An ''unpermitted ongoing project'' is one that commenced prior to the effective date of the 2009 CGP, yet never received authorization to discharge under the 2004 CGP or any other NPDES permit covering its construction-related stormwater discharges. This proposal is limited to those areas where EPA Region 4 is the permitting authority, including all Indian Country Lands within the States of Alabama, Florida, Mississippi, and North Carolina.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking (subject heading: Region 4 CGP Comments).
- Consider organizing your comments by permit section numbers.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. Public Hearings

EPA has not scheduled any public hearings to receive public comment concerning the proposed permit. All persons will continue to have the right to provide written comments during the public comment period. However, interested persons may request a public hearing pursuant to 40 CFR 124.12 concerning the proposed permit. Requests for a public hearing must be sent or delivered in writing to the same address as provided above for public comments prior to the close of the comment period. Requests for a public hearing must state the nature of the issues proposed to be raised in the hearing. Pursuant to 40 CFR 124.12, EPA shall hold a public hearing if it finds, on the basis of requests, a significant degree of public interest in a public hearing on the proposed permit. If EPA decides to hold a public hearing, a public notice of the date, time and place of the hearing will be made at least 30 days prior to the hearing. Any person may provide written or oral statements and data pertaining to the proposed permit at the public hearing.

D. Finalizing the Permit

After the close of the public comment period, EPA Region 4 will issue a final permit. This permit will not be issued until after all public comments have been considered and appropriate changes made to the permit. EPA's response to public comments received will be included in the administrative record as part of the final permit decision. Once the final permit becomes effective, operators of new and unpermitted ongoing construction projects may seek authorization to discharge by filing a NOI to be covered under the new 2009 CGP. Under EPA's regulations at 40 CFR 122.6, any construction site operator obtaining permit coverage prior to the April 30, 2009, expiration date of the 2004 CGP, automatically remains covered under that permit until:

- The operator submits a Notice of Termination;
- EPA issues an individual permit or denies coverage under an individual permit for the site's stormwater discharges, or;
- EPA issues a new general permit that establishes procedures for covering these existing dischargers to obtain coverage under the new general permit and the operator obtains coverage consistent with the procedures detailed in that new general permit.

II. Background of Permit Proposal

A. Statutory and Regulatory History

The Clean Water Act (''CWA'') establishes a comprehensive program ''to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' 33 U.S.C. 1251(a). The CWA also includes the objective of attaining ''water quality which provides for the protection and propagation of fish, shellfish and wildlife.'' 33 U.S.C. 1251(a)(2). To achieve these goals, the CWA requires EPA to control the discharges through the issuance of National Pollutant Discharge Elimination System (''NPDES'') permits.

Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the CWA, which directed EPA to develop a phased approach to regulate stormwater discharges under the NPDES program. EPA published a final regulation in the **Federal Register** on the first phase of this program on November 16, 1990, establishing permit application requirements for ''storm water discharges associated with industrial activity.'' See 55 FR 47990. EPA defined the term ''storm water discharge associated with industrial activity'' in a comprehensive manner to cover a wide variety of facilities.

Construction activities, including activities that are part of a larger common plan of development or sale, that ultimately disturb at least five acres of land and have point source discharges to waters of the U.S. were included in the definition of ''industrial activity'' pursuant to 40 CFR 122.26(b)(14)(x). Phase II of the stormwater program was published in the **Federal Register** on December 8, 1999, and required NPDES permits for discharges from construction sites disturbing at least one acre, but less than five acres, including sites that are part of a larger common plan of development or sale that will ultimately disturb at least one acre but less than five acres, pursuant to 40 CFR 122.26(b)(15)(i). See 64 FR 68722.

NPDES permits issued for construction stormwater discharges are required under Section 402(a)(1) of the CWA to include conditions for meeting technology-based effluent limits established under Section 301 and, where applicable, Section 306. Once an effluent limitations guideline or new source performance standard is promulgated in accordance with these sections, NPDES permits are required to incorporate limits based on such limitations and standards. See 40 CFR 122.44(a)(1). Prior to the promulgation of national effluent limitations and standards, permitting authorities incorporate technology-based effluent limitations on a best professional judgment basis. CWA section 402(a)(1)(B); 40 CFR 125.3(a)(2)(ii)(B).

B. Summary of Permit Proposal

EPA proposes to issue the 2009 CGP for a period not to exceed two years. As proposed, the 2009 CGP will include conditions and limits that are generally identical to the 2008 National CGP issued by other EPA Regional offices, with a few requirements carried over from the 2004 CGP. Note that the 2009 CGP only applies to new and unpermitted ongoing construction projects. Discharges from ongoing projects (or ''existing dischargers'') would continue to be covered under the existing 2004 CGP. (However, EPA clarifies that if an operator of a permitted ongoing project transfers ownership of the project, or a portion thereof, to a different operator, that subsequent operator will be required to submit a complete and accurate NOI for a new project under the 2009 CGP.) Although the existing permit expires on April 30, 2009, dischargers who filed NOIs to be authorized under that permit prior to the expiration date will continue to be authorized to discharge in accordance with EPA's regulations at 40 CFR 122.6. The draft permit proposed here will only apply to dischargers who were not authorized under the 2004 CGP, which includes both ''new projects'' and ''unpermitted ongoing projects.'' Operators of new projects or unpermitted ongoing projects seeking coverage under the 2009 CGP would be expected to use the same electronic Notice of Intent (eNOI) system that is currently in place for the 2004 CGP.

As stated, EPA Region 4 proposes to issue the 2009 CGP for a period not to exceed two years. As a result of recent litigation brought against EPA concerning the promulgation of effluent limitations guidelines and standards for the construction and development (''C&D'') industry, EPA was required by court order to propose effluent limitations guidelines and new source performance standards (hereinafter, ''effluent guidelines'') for the C&D industry by December 2008, and promulgate those effluent guidelines by December 2009. See *Natural Resources Defense Council, et al.* v. *U.S. Environmental Protection Agency,* No CV—0408307–GH (C.D. Cal.) (Permanent Injunction and Judgment, December 5, 2006). EPA believes it is appropriate to propose a revised National CGP once EPA has issued C&D effluent guidelines, and therefore proposes a maximum two-year duration for this permit to better coincide with the court-ordered deadlines for the C&D rule. EPA intends to propose and finalize a new, revised National CGP sooner, if the C&D rule is promulgated earlier than the date directed by the court.

C. What Is EPA's Rationale for This Permit Proposal?

In consideration that the 2004 CGP expires on April 30, 2009, it is incumbent upon EPA Region 4 to make available a similar general permit that provides coverage for any new dischargers commencing construction in the areas where EPA Region 4 is the permitting authority. Without such a permit vehicle, the only other available option for construction site operators is to obtain coverage under an individual permit. EPA is proposing to issue a CGP that adopts the same limits and conditions of the 2008 National CGP issued by other EPA regions for a limited period of time. This action is appropriate for several reasons. One main reason, as discussed above, is that EPA is working on the development of a new effluent guideline that will address stormwater discharges from the same industrial activities (*i.e.,* construction activities disturbing one or more acres) as the CGP. Because the development of the C&D rule and the issuance of the CGP are on relatively similar schedules, and the C&D rule will establish national technology-based effluent limitations and standards for construction activities, EPA believes that it is more appropriate to proceed along two tracks to permit construction discharges. The first track entails issuing a CGP for a limited period of time, not to exceed 2 years, that contains the 2004 CGP limits and conditions, but for only operators of new and unpermitted ongoing projects, so that such entities can obtain valid permit coverage for their discharges. The second track involves proposing and issuing a revised 5-year CGP that incorporates the requirements of the new C&D rule after the rule is promulgated.

In addition, EPA believes that issuing a substantially revised CGP would be impracticable given the number of unknowns concerning the outcome of the C&D rule. EPA does not believe that it would be appropriate to issue a permit containing technology-based limitations that could be quickly outdated, given the timing of a promulgation of the C&D rule and permit issuance. If EPA had attempted to approximate the requirements of the new C&D rule and incorporate such limits into a new CGP, such a permit would presuppose the outcome of the C&D rule and potentially conflict with the scope and content of the effluent limitation guideline. Instead, EPA Region 4 has decided to wait the short time until after the C&D rule promulgation to issue a revised CGP that is fully reflective of the new effluent limitation guideline. In the meantime, during this relatively short period of time prior to the C&D rule's promulgation and prior to the issuance of the revised CGP that incorporates those standards, EPA is proposing to use similar permit limits and conditions as the 2004 CGP as an effective vehicle to control new discharges. EPA notes that it has minimized the amount of time during which the 2009 CGP will remain effective in order to underscore the Agency's intention to issue a revised CGP once the C&D rule is finalized.

D. Significant Changes From 2004 CGP

As discussed above, EPA is proposing to issue the 2008 CGP for a period not to exceed two years. This permit would include similar limits and conditions as the 2004 CGP with the following noteworthy differences:

1. Clarification that eligibility for coverage under the 2009 CGP is limited

to operators of new and unpermitted ongoing construction projects.

2. Clarification that operators of ongoing permitted construction projects are not eligible for coverage under the 2009 CGP.

E. Geographic Coverage

EPA is only authorized to provide permit coverage for classes of discharges that are outside the scope of a state's NPDES program authorization. EPA Region 4 is proposing to issue the 2009 CGP to replace the expiring 2004 CGP for operators of new and unpermitted ongoing construction projects. The geographic coverage and scope of the 2009 CGP includes all Indian Country Lands within the States of Alabama, Florida, Mississippi, and North Carolina, where EPA Region 4 is the NPDES permitting authority. There is no change in the scope of coverage from the 2004 CGP.

III. Compliance With the Regulatory Flexibility Act

A. EPA's Approach to Compliance With the Regulatory Flexibility Act for General Permits

The Regulatory Flexibility Act (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.

The legal question of whether a general permit (as opposed to an individual permit) qualifies as a ''rule'' or as an ''adjudication'' under the Administrative Procedure Act (APA) has been the subject of periodic litigation. In a recent case, the court held that the CWA Section 404 Nationwide general permit before the court did qualify as a ''rule'' and therefore that the issuance of that general permit needed to comply with the applicable legal requirements for the issuance of a ''rule.'' *National Ass'n of Home Builders* v. *US Army Corps of Engineers,* 417 F.3d 1272, 1284–85 (DC Cir.2005) (Army Corps general permits under Section 404 of the CWA are rules under the APA and the Regulatory Flexibility Act; ''Each NWP [nationwide permit] easily fits within the APA's definition 'rule. * * * As such, each NWP constitutes a rule * * *'').

As EPA stated in 1998, ''the Agency recognizes that the question of the applicability of the APA, and thus the RFA, to the issuance of a general permit is a difficult one, given the fact that a large number of dischargers may choose to use the general permit.'' 63 FR 36489, 36497 (July 6, 1998). At that time, EPA ''reviewed its previous NPDES general permitting actions and related statements in the **Federal Register** or elsewhere,'' and stated that ''[t]his review suggests that the Agency has generally treated NPDES general permits effectively as rules, though at times it has given contrary indications as to whether these actions are rules or permits.'' *Id.* at 36496. Based on EPA's further legal analysis of the issue, the Agency ''concluded, as set forth in the proposal, that NPDES general permits are permits [i.e., adjudications] under the APA and thus not subject to APA rulemaking requirements or the RFA.'' *Id.* Accordingly, the Agency stated that ''the APA's rulemaking requirements are inapplicable to issuance of such permits,'' and thus ''NPDES permitting is not subject to the requirement to publish a general notice of proposed rulemaking under the APA or any other law * * * [and] it is not subject to the RFA.'' *Id.* at 36497.

However, the Agency went on to explain that, even though EPA had concluded that it was not legally required to do so, the Agency would voluntarily perform the RFA's small-entity impact analysis. *Id.* EPA explained the strong public interest in the Agency following the RFA's requirements on a voluntary basis: ''[The notice and comment] process also provides an opportunity for EPA to consider the potential impact of general permit terms on small entities and how to craft the permit to avoid any undue burden on small entities.'' *Id.* Accordingly, with respect to the NPDES permit that EPA was addressing in that **Federal Register** notice, EPA stated that ''the Agency has considered and addressed the potential impact of the general permit on small entities in a manner that would meet the requirements of the RFA if it applied.'' *Id.*

Subsequent to EPA's conclusion in 1998 that general permits are adjudications rather than rules, as noted above, the DC Circuit recently held that Nationwide general permits under section 404 are ''rules'' rather than ''adjudications.'' Thus, this legal question remains ''a difficult one'' (*supra*). However, EPA continues to believe that there is a strong public policy interest in EPA applying the RFA's framework and requirements to the Agency's evaluation and consideration of the nature and extent of any economic impacts that a CWA general permit could have on small entities (*e.g.,* small businesses). In this regard, EPA believes that the Agency's evaluation of the potential economic impact that a general permit would have on small entities, consistent with the RFA framework discussed below, is relevant to, and an essential component of, the Agency's assessment of whether a CWA general permit would place requirements on dischargers that are appropriate and reasonable. Furthermore, EPA believes that the RFA's framework and requirements provide the Agency with the best approach for the Agency's evaluation of the economic impact of general permits on small entities. While using the RFA framework to inform its assessment of whether permit requirements are appropriate and reasonable, EPA will also continue to ensure that all permits satisfy the requirements of the CWA. Accordingly, EPA has committed to operate in accordance with the RFA's framework and requirements during the Agency's issuance of CWA general permits (in other words, the Agency has committed that it will apply the RFA in its issuance of general permits as if those permits do qualify as ''rules'' that are subject to the RFA).

B. Application of RFA Framework to Proposed Issuance of CGP

EPA has concluded, consistent with the discussion in Section IV.A above, that the proposed issuance of the 2009 CGP could affect a handful of small entities. In the areas where the CGP is effective (see Section II.E), (those areas where EPA is the permit authority), a total of 27 construction projects were authorized under the 2004 CGP—some of these projects could have been operated by small entities. However, EPA has concluded that the proposed issuance of the 2009 CGP is unlikely to have an adverse economic impact on small entities. The draft 2009 CGP includes the same requirements as those of the national 2008 CGP issued by other EPA regions. Additionally, an operator's use of the CGP is volitional (*i.e.,* a discharger could apply for an individual permit rather than for coverage under this general permit) and, given the more streamlined process for obtaining permit coverage, is less burdensome than an individual NPDES permit. EPA intends to include an updated economic screening analysis with the issuance of the next national CGP.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: April 28, 2009.

William L. Cox,

Acting Director, Water Protection Division, Region 4.

[FR Doc. E9–10536 Filed 5–6–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–8791–4; Docket ID No. EPA–HQ–ORD–2009–0210]

Draft Toxicological Review of 1,4-Dioxane: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing a public comment period for the external review draft document titled, ''Toxicological Review of 1,4-Dioxane: In Support of Summary Information on the Integrated Risk Information System (IRIS).'' The public comment period and the external peer-review workshop, which will be scheduled at a later date and announced in the **Federal Register**, are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward the public comments that are submitted in accordance with this notice to the external peer-review panel prior to the meeting for their consideration. When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

The draft document and EPA's peer-review charge are available via the Internet on the NCEA home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea*.

DATES: The 60-day public comment period begins May 7, 2009, and ends July 6, 2009. Technical comments should be in writing and must be received by EPA by July 6, 2009. EPA intends to submit comments from the public received by this date for consideration by the external peer review panel.

ADDRESSES: The draft ''Toxicological Review of 1,4-Dioxane: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available via the Internet on the National Center for Environmental Assessment's (NCEA) home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea*. A limited number of paper copies are available from NCEA's Information Management Team, telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title, ''Toxicological Review of 1,4-Dioxane: In Support of Summary Information on the Integrated Risk Information System (IRIS).''

Comments may be submitted electronically via *http://www.regulations.gov*, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov*.

If you have questions about the document, contact Eva D. McLanahan, Hazardous Pollutant Assessment Group (HPAG), National Center for Environmental Assessment, 109 T.W. Alexander Dr., Research Triangle Park, NC 27709; telephone: 919–541–1396; facsimile: 919–541–0245; or e-mail: *mclanahan.eva@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Integrated Risk Information System (IRIS)

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 540 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at http://www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2009–0210 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0210. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov*, including any personal information provided, unless a comment includes information claimed to be confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The

http://www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: April 7, 2009.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. E9–10656 Filed 5–6–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8897–7; Docket ID No. EPA–HQ–ORD–2009–0178]

Draft Toxicological Review of Pentachlorophenol: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing a public comment period for the external review draft document titled ''Toxicological Review of Pentachlorophenol: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/635/R–09/004). The EPA intends to consider comments and recommendations from the public and the expert panel meeting, which will be scheduled at a later date and announced in the **Federal Register**, when EPA finalizes the draft document. The public comment period will provide opportunities for all interested parties to comment on the document. EPA intends to forward public comments, submitted in accordance with this notice, to the external peer-review panel prior to the meeting for their consideration. When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

EPA is releasing this draft document solely for the purpose of pre-dissemination public review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

The draft document and EPA's peer-review charge are available via the Internet on National Center for Environmental Assessment's (NCEA) home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.*

DATES: The public comment period begins May 7, 2009 and ends July 6, 2009. Technical comments should be in writing and must be received by EPA by July 6, 2009. EPA intends to submit comments from the public received by this date for consideration by the external peer review panel.

ADDRESSES: The draft ''Toxicological Review of Pentachlorophenol: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available via the Internet on the NCEA's home page under the Recent Additions and the Data and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from NCEA's Technical Information Staff, *telephone:* 703–347–8561; *facsimile:* 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; *telephone:* 202–566–1752; *facsimile:* 202–566–1753; or *e-mail: ORD.Docket@epa.gov*.

If you have questions about the document, contact Catherine Gibbons, IRIS Staff, National Center for Environmental Assessment, (8601P), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone:* 703–603–0704; *facsimile:* 703–347–8689; or *e-mail: gibbons.catherine@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Information About the Integrated Risk Information System (IRIS)

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 540 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at http://www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2009–0178 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov*.
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket

Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0178. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov*, including any personal information provided, unless a comment includes information claimed to be confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: April 21, 2009.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. E9–10657 Filed 5–6–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8902–4]

Small Drinking Water System Variances and Other Approaches for the Equitable Consideration of Small System Customers Stakeholder Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency is giving notice of a public meeting to discuss policies to assure equitable treatment of small drinking water system customers. These policies include small drinking water system variance methodologies and alternative strategies. This meeting is open to the public and will provide a forum for public discussion on potential changes to EPA's existing small drinking water system variance determination methodology as well as to discuss alternative compliance strategies (*e.g.*, capacity development and utilization of provisions of the Drinking Water State Revolving Fund such as disadvantaged community loan subsidies) that could be considered.

DATES: The public meeting will be held on Wednesday, May 20, 2009, from 9 a.m. to 3 p.m. Attendees should register for the meeting by contacting Rebecca Allen of EPA's Office of Ground Water and Drinking Water at (202) 564–4689 or by e-mail at *allen.rebeccak@epa.gov* no later than May 14, 2009.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: For administrative or technical meeting information, contact Rebecca Allen, Office of Water, Office of Ground Water and Drinking Water, Standards and Risk Management Division, Targeting and Analysis Branch, U.S. EPA, 1201 Constitution Ave., NW., Washington, DC 20460 at (202) 564–4689 or by e-mail at *allen.rebeccak@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background: The 2010 Budget states that EPA is to ''* * * work with State and local governments to address Federal drinking water policy in order to provide equitable consideration of small system customers.'' One approach is to revise the Agency's small system variance affordability methodology. Other approaches include capacity development and utilization of provisions of the Drinking Water State Revolving Fund such as disadvantaged community loan subsidies.

The 1996 amendments of the Safe Drinking Water Act provide States the authority to grant variances to small public water systems that cannot afford to comply with a National Primary Drinking Water Standard. More specifically, States may issue such variances if EPA determines that affordable compliance technologies are not available; and EPA determines variance technologies are available that both achieve the maximum reduction that is affordable and are protective of public health. When issued by the State, a small system variance would allow a system to install and maintain a variance technology in lieu of technology that can achieve compliance with the regulation. Variances are not available for microbial contaminants.

EPA's current methodology to determine affordable compliance technologies for small systems compares the current household cost of water plus the estimated additional cost to comply with a new rule to an affordability ''threshold'' of 2.5 percent of the median household income. This methodology is described in EPA's 1998 Announcement of Small System Compliance Technology Lists for Existing National Primary Drinking Water Regulations and Findings Concerning Variance Technologies (63 FR 42032, August 6, 1998).

EPA is considering revisions to this methodology to provide equitable consideration of small system customers. EPA believes it is important to consider public health and compliance costs. EPA also intends to

consider other approaches, such as targeted use of funding to disadvantaged water systems. EPA plans to further consult with the National Drinking Water Advisory Council and to review the many public comments we received on an earlier proposal to revise the existing methodology.

Special Accommodations

For information on access or accommodations for individuals with disabilities, please contact Rebecca Allen at (202) 564–4689 or by e-mail at *allen.rebeccak@epa.gov*. Please allow at least 10 days prior to the meeting to give EPA time to process your request.

Dated: May 4, 2009.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. E9–10644 Filed 5–6–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 04–36, CG Docket No. 03–123, WT Docket No. 96–198 and CC Docket No. 92–105; DA 09–749]

IP–Enabled Services; Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996: Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons With Disabilities; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission, via the Consumer and Governmental Affairs Bureau, seeks comment on the petition for extension of waiver filed with the Commission by AT&T Inc. (AT&T) and Sprint Nextel Corporation (Sprint) (*Petition*). The *Petition* requested a one-year extension of the current waiver of the Commission's rules to the extent that provision requires traditional telecommunications relay service (TRS) providers (those providing relay service via the public switched telephone network and a text telephone (TTY)) to automatically and immediately call an appropriate Public Safety Answering Point (PSAP) when receiving an emergency 711-dialed call placed by an interconnected voice over Internet Protocol (VoIP) user. The Commission seeks comment on the remaining technical, operational, or other issues that currently prevent traditional TRS providers from being able to reliably identify the appropriate PSAP to call when receiving an emergency call via 711 and an interconnected VoIP service. The Commission also seeks comment regarding the usage of traditional TRS to place calls through interconnected VoIP service, particularly the incidence of such calls for purposes of obtaining emergency assistance.

DATES: Comments are due on or before May 28, 2009 and reply comments are due on or before June 8, 2009.

ADDRESSES: Interested parties may submit comments and reply comments identified by [WC Docket No. 04–36, CG Docket No. 03–123, WT Docket No. 96–198 and CC Docket No. 92–105], by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- Parties who choose to file by paper should also submit their comments on a compact disc. The compact discs should be submitted, along with three paper copies, to: Dana Wilson, Consumer and Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room 3–C418, Washington, DC 20554. Such a submission should be on a compact disc formatted in an IBM compatible format using Word 2003 or compatible software. The compact disc should be accompanied by a cover letter and should be submitted in ''read only'' mode. The compact disc should be clearly labeled with the commenter's name, the proceedings (including the docket numbers) in this case, [WC Docket No. 04–36, CG Docket No. 03–123, WT Docket No. 96–198, and CC Docket No. 92–105], type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the compact disc. The label should also include the following phrase ''Disc Copy—Not an Original.'' Each compact disc should contain only one party's pleadings, preferably in a single electronic file. In addition, paper filers must send compact disc copies to the Commission's copy contractor, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lisa Boehley, Consumer and Governmental Affairs Bureau at (202) 418–7395 (voice), or e-mail: *Lisa.Boehley@fcc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance [WC Docket No. 04–36, CG Docket No. 03–123, WT Docket No. 96–198, and CC Docket No. 92–105]. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form your e-mail address.'' A sample form and directions will be sent in response.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption in this proceeding, filers must submit two additional copies of each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• Commercial mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

This is a synopsis of the Commission's document DA 09–749, released April 1, 2009. This document also contains a separate order granting in part the petition for extension of waiver filed by AT&T and Sprint and extending for 90 days (until June 29, 2009) the limited waiver granted to traditional TRS providers in the *2008 TRS 711 Waiver Order.* Pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are subject to disclosure.

On June 15, 2007, the Commission released the Report and Order (*VoIP TRS Order*), published at 72 FR 43546, August 6, 2007, WC Docket No. 04–36, CG Docket No. 03–123, WT Docket No. 96–198 and CC Docket No. 92–105, FCC 07–110. In the *VoIP TRS Order,* effective October 5, 2007, the Commission extended its pre-existing TRS rules to interconnected VoIP providers, including the duty to offer 711 abbreviated dialing access to TRS. The *VoIP TRS Order* required interconnected VoIP providers to offer 711 abbreviated dialing ''to ensure that TRS calls can be made from any telephone, anywhere in the United States, and that such calls will be properly routed to the appropriate relay center.'' In the Order and Public Notice Seeking Comment (*October 2007 Order and Notice*), released on October 9, 2007, published at 72 FR 61813, November 1, 2007, and 72 FR 61882, November 1, 2007, WC Docket No. 04–36, CG Docket No. 03–123, WT Docket No. 96–198 and CC Docket No. 92–105, DA 07–4178, the Commission clarified the 711 abbreviated dialing requirement adopted in the *VoIP TRS Order* and granted interconnected VoIP providers a six-month waiver of the requirement to route the inbound leg of a 711-dialed call to an ''appropriate TRS provider,'' as defined by the Commission. The Commission also determined that the geographic location identification challenges associated with interconnected VoIP-originated 711 calls rendered traditional TRS providers unable to consistently identify the ''appropriate'' PSAP to which to route such calls. On this basis, the Commission found good cause to grant traditional TRS providers a six-month waiver of the obligation set forth in § 64.604(a)(4) of its rules to automatically and immediately route the outbound leg of an interconnected VoIP-originated emergency 711 call to an ''appropriate'' PSAP.

In the Order (*2008 TRS 711 Waiver Order*), released on April 4, 2008, published at 73 FR 28057, May 15, 2008, WC Docket No. 04–36, CG Docket No. 03–123, WT Docket No. 96–198 and CC Docket No. 92–105, DA 07–4178, the Commission granted interconnected VoIP providers an extension of time, until March 31, 2009, to route 711-dialed calls to an appropriate relay center, in the context of 711-dialed calls in which the calling party is using a non-geographically relevant telephone number or a nomadic interconnected VoIP service. The Commission also granted traditional TRS providers an extension of time, until March 31, 2009, to fulfill their obligation to implement a system to automatically and immediately call an appropriate PSAP when receiving an emergency 711-dialed call via an interconnected VoIP service.

On March 20, 2009, AT&T and Sprint filed a petition seeking a one-year extension of the waiver of § 64.604(a)(4) of the Commission's rules to the extent that provision requires traditional TRS providers to automatically and immediately route to an appropriate PSAP emergency 711-dialed calls placed by interconnected VoIP users.

The full text of this document and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554. Customers may contact the Commission's contractor at their web site www.bcpiweb.com or by calling 1–800–378–3160. A copy of the underlying petition for waiver may also be found by searching ECFS at *http://www.fcc.gov/cbg.ecfs.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/dro/trs.html#orders.*

Synopsis

In this document, the Commission seeks comment on the remaining technical, operational, or other issues that currently prevent traditional TRS providers from being able to reliably identify the appropriate PSAP to call when receiving an emergency call via 711 and an interconnected VoIP service. In particular, comment is sought on the specific steps that remain to be taken in order for traditional TRS providers to be able to consistently route interconnected VoIP-originated 711 emergency calls in the manner prescribed by § 64.604(a)(4) of the Commission's rules. The Commission also asks providers for an estimate of the costs and the timeframe associated with each of these steps. Further, the Commission seeks comment from interconnected VoIP providers and TRS providers regarding the total number of interconnected VoIP-originated 711 TRS calls that are processed annually by each provider (estimates, if actual figures are unavailable) and the proportion of those calls that are of an emergency nature.

The Commission also seeks comment from interconnected VoIP providers and TRS providers, as well as from consumers and disability rights advocates, concerning the continuing use of TTYs by individuals with hearing or speech disabilities and, in particular, the use of TTYs with an interconnected VoIP service. The Commission seeks comment on the overall effectiveness of providers' outreach efforts in educating consumers about the importance of dialing 911 directly in an emergency, rather than dialing 711 to place an emergency call via TRS.

Further, commenters are encouraged to comment on any impediments consumers have encountered in attempting to dial 911 directly in an emergency situation (when using a TTY and an interconnected VoIP service). Finally, the Commission seeks comment on the continuing need, from the consumer's perspective, of dialing 711 via TRS in an emergency, rather than dialing 911 directly.

Federal Communications Commission.

Catherine Seidel,

Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. E9–10504 Filed 5–6–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

May 1, 2009

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, May 7, 2009, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Draft Advisory Opinion 2009–08: Congressman Elton Gallegly, Elton Gallegly for Congress.
Report of the Audit Division on Kuhl for Congress.
Report of the Audit Division on League of Conservation Voters Action Fund.
Report of the Audit Division on the Ciro D. Rodriguez for Congress Committee.
Report of the Audit Division on Zinga for Congress.
Discussion of Press Release Policy.
Management and Administrative Matters.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mary Dove, Commission Secretary, at (202) 694–1040, at least 72 hours prior to the hearing date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, *Telephone:* (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. E9–10530 Filed 5–6–09; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Agency Informational Collection Activities

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final 30-day Notice of Information Collection for Forms SF–424, SF–270 (LM–6), LM–8, SF–269a, LM–7, LM–9 and LM–3 that was sent to Office of Management and Budget for approval.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) published a 30-day notice in the **Federal Register** [on March 23, 2009, (Volume 74, Number 54) Pages 12131–12132] for public comment on seven information collection requests contained among the (FMCS) Labor Management Cooperation Program which was up for renewal of currently approved collection by Office of Management and Budget (OMB). FMCS submitted to the Office of Management Budget a request for review of these seven forms: Application for Federal Assistance (SF–424), Request for Advance or Reimbursement SF–270 (LM–6), Project Performance (LM–8), Financial Status Report SF–269a (LM–7), Grants Program Grantee Evaluation Questionnaire (agency form LM–9), and Accounting System and Financial Capability Questionnaire (LM–3). The request seeks OMB approval for an emergency extension with an expiration date of March 12, 2012, for forms SF–424, SF–270 (LM–6), (LM–8), SF–269a, (LM–7), (LM–9) and (LM–3).

DATES: FMCS received no comments regarding information collection. The forms are currently pending OMB approval.

ADDRESSES: Michael Bartlett, Federal Register Liaison at *mbartlett@fmcs.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Stubbs, Grants Management Specialist, FMCS, 2100 K Street, NW., Washington, DC 20427. Telephone number (202) 606–8181, e-mail at *lstubbs@fmcs.gov* or fax at (202) 606–3434.

SUPPLEMENTARY INFORMATION: Copies of the complete agency forms are available from the Office of Labor Management Grants Program by calling, faxing, or writing Linda Stubbs at the address above. Please ask for forms by agency number.

I. Information Collection Requests

FMCS was seeking comments on the following information collection requests contained in FMCS agency forms.

Agency: Federal Mediation and Conciliation Service.

Form Number: OMB No. 3076–0006.

Expiration date: December 12, 2006.

Type of Request: Extension of a previously approved collection without change in the substance or method of collection.

Affected Entities: Potential applicants and/or grantees who received our grant application kit. Also applicants who have received a grant from FMCS.

Frequency:

a. Three of the forms, the SF–424, LM–6, and LM–9 are submitted at the applicant/grantee's discretion.

b. To conduct the quarterly submissions, LM–7and LM–8 forms are used. Less than quarterly reports would deprive FMCS of the opportunity to provide prompt technical assistance to deal with those problems identified in the report.

c. Once per application. The LM–3 is the only form to which a ''similar information'' requirement could apply. That form takes the requirement into consideration by accepting recent audit reports in lieu of applicant completion of items C2 through 9 and items D1 through 3.

Abstract: Except for the FMCS Forms LM–3 and LM–9, the forms under consideration herein are either required or recommended in OMB Circulars. The two exceptions are non-recurring forms, the former a questionnaire sent only to non-public sector potential grantees and the latter a questionnaire sent only to former grantees for voluntary completion and submission. The collected information is used by FMCS to determine annual applicant suitability, to monitor quarterly grant project status, and for on-going program evaluation. If the information were not collected, there could be no accounting for the activities of the program. Actual use has been the same as intended use.

Burden: Application for Federal Assistance (SF–424) is an OMB form which we do not include in the burden. We have not added to it; however we have deleted the requirements for completion of sections C, D, and E. We received approximately 113 responses. Request for Advance or Reimbursement SF–270 (LM–6) is an OMB form with no agency additions. The number of respondents is approximately 37 and estimated time per response is 30 minutes. Project Performance (LM–8) had approximately 37 respondents and the estimated time per response is 30 minutes. Financial Status Report (SF–269a) (LM–7) is an OMB form with no agency additions. The estimated time per response is 30 minutes and there are approximately 37 respondents. FMCS Grants Program Evaluation Questionnaire (LM–9) form number of respondents is approximately 12 and the estimated time per response is 60 minutes. The Accounting System and Financial Capability Questionnaire (LM–3) has approximately 28 respondents and the estimated time per response is 60 minutes.

II. Request for Comments

The FMCS was particularly interested in comments which:

(i) 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;

(ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic collection technologies or other forms of information technology, e.g. permitting electronic and fax submission of responses.

III. The Official Records

The official records are the paper electronic records maintained at the address at the beginning of this document. FMCS will transfer all electronically received comments into printed-paper form as they are received.

List of Subjects

Labor-Management Cooperation Program and Information Collection Requests.

Dated: April 29, 2009.

Michael Bartlett,

Deputy General Counsel.

[FR Doc. E9–10679 Filed 5–6–09; 8:45 am]

BILLING CODE 6732–01–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 June 1, 2009.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106–2204:

1. BSB Bancorp, MHC and BSB Bancorp, Inc., both of Belmont, Massachusetts; to become a mutual bank holding company and stock bank holding company, respectively, by acquiring Belmont Savings Bank, Belmont, Massachusetts.

B. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. 1st Financial Services Corporation, Hendersonville, North Carolina; to acquire 100 percent of the voting shares of AB&T Financial Corporation, and thereby indirectly acquire voting shares of Alliance Bank & Trust Company, both of Gastonia, North Carolina.

C. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Country Bancorporation, Crawfordsville, Iowa; to acquire 100 percent of the voting shares of The Exchange State Bank, Springville, Iowa.

Board of Governors of the Federal Reserve System, May 4, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–10595 Filed 5–6–09; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; Notice of new System of Records

AGENCY: General Services Administration.

ACTION: New notice.

SUMMARY: GSA proposes to establish a new system of records subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a. The system collects information to provide updates and other important stimulus information to subscribers. The information may be used in conjunction with voluntarily supplied reports to further identify the source (by first name and geographical location). Anonymous aggregations may be used to understand regional trends and/or other statistical analyses. The information will only be used as discussed.

DATES: Effective June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Call or e-mail the GSA Privacy Act Officer: telephone 202–208–1317; e-mail *gsa.privacyact@gsa.gov.*

ADDRESSES: GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street NW., Washington, DC 20405.

SUPPLEMENTARY INFORMATION: GSA proposes to establish a new system of records subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a. The system will collect information to provide updates and other important stimulus information to subscribers. The information may be used in conjunction with voluntarily supplied reports to further identify the source (by first name and geographical location). Anonymous aggregations may be used to understand regional trends and/or other statistical analyses. The information will only be used as discussed. Those having access to the information are system administrators and GSA staff and contractors and White House and Recovery Board officials with a strict need to know.

Dated: April 29, 2009.

James L. Atwater,

Director, Information Resources and Privacy Management Division.

GSA/RECOVERY-1

SYSTEM NAME:

Recovery.gov.

SYSTEM LOCATION:

The system is housed at GSA's central office. The program is developed by contractors.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who uses the Web site Recovery.gov and voluntarily provides personal information.

CATEGORIES OF RECORDS IN THE SYSEM:

The system contains records that capture information users voluntarily provide including:

- Name
- E-mail address
- Telephone Number

• Address

• Comments such as a personal story of the effect on them of the economic downturn.

While it is possible that the comments contain identifiable information they cannot be used as a searchable index.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, Title XV, Section 1526) establishes recovery.gov.

PURPOSE:

GSA proposes to establish a new system of records subject to the Privacy Act of 1974 (as amended), 5 U.S.C. 552a. The system will collect contact information to provide updates and other important stimulus information to subscribers. The information may be used in conjunction with voluntarily supplied reports to further identify the source (by first name and geographical location). Anonymous aggregations may be used to understand regional trends and/or other statistical analyses. The information will only be used as discussed. Those having access to the information are system administrators and GSA staff and contractors and White House and Recovery Board officials with a strict need to know.

ROUTINE USES OF THE SYSTEM RECORDS, INCLUDING CATEGORIES OF USERS AND THEIR PURPOSE FOR USING THE SYSTEM:

Information from this system may be disclosed as a routine use by the following:

a. System information may be accessed by system managers, technical support and designated analysts in the course of their official duties. The White House, Recovery Board officials and other authorized personnel may access demographic information to understand constituents' economic needs. They may access information to send emails to those who have signed up for this service.

b. Stories provided by individuals may be selected for publication and used in speeches or other discussions related to the stimulus and economic recovery. The only identification will be the user's first name and state of residence.

c. In any legal proceeding, where pertinent, to which GSA is a party before a court or administrative body.

d. To authorized officials engaged in investigating or settling a grievance, complaint, or appeal filed by an individual who is the subject of the record.

e. To a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order when GSA becomes aware of a violation or potential violation of civil or criminal law or regulation.

f. To an appeal, grievance, hearing, or complaints examiner; an equal employment opportunity investigator, arbitrator, or mediator; and an exclusive representative or other person authorized to investigate or settle a grievance, complaint, or appeal filed by an individual who is the subject of the record.

g. To a Member of Congress or his or her staff on behalf of and at the request of the individual who is the subject of the record.

h. To an expert, consultant, or contractor of GSA in the performance of a Federal duty to which the information is relevant.

i. To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Agency has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or of other systems or programs (whether maintained by GSA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with GSA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

j. To the National Archives and Records Administration (NARA) for records management purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on a secure server and accessed only by authorized personnel.

RETRIEVABILITY:

Records may be retrievable by name, email address, or any other personal information listed in the Categories of Records in the System except for personal story.

SAFEGUARDS:

System records are safeguarded in accordance with the requirements of the Privacy Act. Access is limited to authorized individuals with passwords, and the database is maintained behind a firewall certified by the National Computer Security Association.

RETENTION AND DISPOSAL:

System records are retained and disposed of according to GSA records maintenance and disposition schedules and the requirements of the Recovery Board and the National Archives and Records Administration.

SYSTEM MANAGER AND ADDRESS:

Director, Acquisition Environment Division, General Services Administration, 2011 Crystal Drive, Suite 911, Arlington, VA 22202.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if the system contains information about them should contact the system manager listed above.

RECORD ACCESS PROCEDURE:

Requests for access also may be directed to the system manager.

CONTESTING RECORD PROCEDURES:

Rules for contesting the content of a record and appealing a decision are contained in 41 CFR 105–64.

RECORD SOURCE CATEGORIES:

The sources for information in the system are the users themselves.

[FR Doc. E9–10411 Filed 5–6–09; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Vaccine Advisory Committee (NVAC) will hold a meeting. The meeting is open to the public. Pre-registration is required for both public attendance and comment. Individuals who wish to attend the meeting and/or participate in the public comment session should either e-mail *nvpo@hhs.gov* or call 202–690–5566 to register.

DATES: The meeting will be held on June 2, 2009, from 9 a.m. to 5:30 p.m. and on June 3, 2009, from 8:30 a.m. to 1:30 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey

Building, Room 800; 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Andrea Krull, Public Health Advisor, National Vaccine Program Office, Department of Health and Human Services, Room 443–H Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Phone: (202) 690–5566; Fax: (202) 260–1165; e-mail: *nvpo@hhs.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to section 2101 of the Public Health Service Act (42 U.S.C. 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National Vaccine Advisory Committee was established to provide advice and make recommendations to the Director of the National Vaccine Program, on matters related to the Program's responsibilities. The Assistant Secretary for Health serves as Director of the National Vaccine Program.

Topics to be discussed at the meeting include vaccine safety recommendations, the National Vaccine Plan, adult immunization recommendations, NVAC evaluation, vaccine stockpile, vaccine financing, 2009 H1N1 influenza outbreak, and other related issues. The meeting agenda will be posted on the Web site: *http://www.hhs.gov/nvpo/nvac* by May 18, 2009.

Public attendance at the meeting is 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 designated contact person at least one week prior to the meeting. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Individuals who would like to submit written statements should e-mail or fax their comments to the National Vaccine Program Office at least five business days prior to the meeting. Register by sending an e-mail to *nvpo@hhs.gov* or by calling 202–690–5566 and providing name, e-mail address and organization.

Dated: April 29, 2009.

Bruce Gellin,

Deputy Assistant Secretary for Health, Director, National Vaccine Program Office.

[FR Doc. E9–10668 Filed 5–6–09; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–0923–0039]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Tremolite Asbestos Registry (TAR) OMB# 0923–0039—Extension—Agency for Toxic Substances and Disease Registry, (ATSDR) Centers for Disease Control and Prevention, (CDC).

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and its 1986 Amendments, the Superfund Amendments and Re-authorization Act (SARA), to establish and maintain national registries of persons who have been exposed to hazardous substances in the environment and national registries of persons with illnesses or health problems resulting from such exposure. In 2003, ATSDR created the Tremolite Asbestos Registry (TAR) as a result of this legislation in an effort to provide scientific information about potential adverse health effects people develop as a result of exposure to the amphibole fibers that are found in vermiculite mined from Libby, Montana. The purpose of the TAR is to improve communication with people at risk for developing asbestos-related diseases resulting from exposure in Libby, Montana and to support research activities related to TAR registrants. The TAR is currently composed of information about former vermiculite workers, the people that lived with them during their tenure as vermiculite workers (*i.e.*, the workers' household contacts), and people who participated in screening programs funded by ATSDR conducted in Libby and other sites that received Libby vermiculite. TAR participants are interviewed to collect information on exposure pathways, tobacco use, and health outcomes. The standardized TAR survey is administered using a computer-assisted personal interview instrument.

There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Forms	Number of respondents	Responses per respondent	Avg. burden per response (in hrs.)	Total burden hours
TAR Participants	Baseline TAR questionnaire	500	1	30/60	250
	Follow-up questionnaire	4,500	1	20/60	1,500
Total				1,750	

Dated: May 1, 2009.

Marilyn S. Radke,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–10617 Filed 5–6–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Facilities Construction, Purchase and Major Renovation—45 CFR 1309.

OMB No.: 0970–0193.

Description: The Office of Head Start is proposing to renew, without changes, 45 CFR part 1309. This rule contains the administrative requirements for Head Start and Early Head Start grantees who apply for funding to purchase, renovate, or construct Head Start program facilities. The rule ensures that grantees use standard business practices when acquiring real property and that Federal interest is preserved in properties acquired with public funds. The rule further ensures compliance with all other Federal statutes applicable to the expenditure of Federal funds when acquiring real property.

Respondents: Head Start and Early Head Start grantees and delegate agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Regulation	200	1	41	8,200

Estimated Total Annual Burden Hours: 8,200.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. *E-mail address: infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–7245, *Attn:* Desk Officer for the Administration for Children and Families.

Dated: May 4, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–10621 Filed 5–6–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Head Start Program Administrative Practice and Procedure; Appeal Procedures, 45 CFR 1303.

OMB No.: 0980–0242.

Description: Section 646 of the Head Start Act requires the Secretary of Health and Human Services to prescribe a timeline for conducting administrative hearings when adverse actions are taken or proposed against Head Start and Early Head Start grantees and delegate agencies. The Office of Head Start is proposing to renew, without changes, this rule, which implements these requirements and which prescribes when a grantee must submit certain information and what that information shall include.

Respondents: Head Start and Early Head Start grantees and Delegate Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Rule	20	1	26	520

Estimated Total Annual Burden Hours: 520.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. *E-mail address: infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 4, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–10622 Filed 5–6–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0192]

Availability of Information Related to the Sentinel Initiative

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the opening of a docket to receive and to make available to the public reports and other relevant information received by FDA related to the Sentinel Initiative. The goal of the Sentinel Initiative is to develop a system that will ultimately enable FDA to actively monitor the safety of marketed regulated products. The information that will be made available is being developed primarily, but not exclusively, as a result of a series of contracts awarded by FDA to inform the development of the system. The information will be made available in the docket under the docket number at the top of this notice, as well as on FDA's Sentinel Initiative Web page (Sentinel Web page) at *http://www.fda.gov/oc/initiatives/advance/sentinel/*. FDA welcomes interested parties, including individuals, to submit to this docket their views and perspectives on the information included in the docket or on any other aspect of the Sentinel Initiative.

DATES: Submit written or electronic comments at any time.

ADDRESSES: Submit written comments on the information in this docket to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the information.

FOR FURTHER INFORMATION CONTACT: Melissa Robb, Office of Critical Path Programs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1512.

SUPPLEMENTARY INFORMATION:

I. Background

An important part of FDA's mission is to protect public health by monitoring the safety of marketed regulated products. FDA currently has a number of reporting systems in place for learning about and tracking reports of adverse events and product problems associated with the use of FDA-regulated products. However, most of these systems are passive; someone (e.g., a healthcare professional, consumer, pharmaceutical company) must first report such an event or problem to FDA. To augment this mostly passive approach to monitoring postmarket safety, FDA announced in May 2008 the development of a system that would enable FDA to capitalize on the capabilities of multiple existing electronic health care data systems (e.g. electronic health record systems, administrative claims databases, registries) to actively monitor regulated product safety.

As currently envisioned, the system would enable FDA to query large participating data sources quickly and securely for relevant product safety information. FDA would send questions to participating data holders, who in turn would, in accordance with existing privacy and security safeguards, evaluate their data and send summary results to FDA for agency review. This system, which will be developed and implemented in stages, is expected to facilitate the development of active surveillance methodologies related to signal detection, signal strengthening, and signal validation.

To be successful, the system will require the participation of many stakeholders. Since announcing the Sentinel Initiative, FDA has fostered a broad public forum to explore the complexities of creating such a system. Numerous meetings have been held with a variety of stakeholders. Eight contracts have been awarded to explore a variety of topics that will inform the development of the system, and a number of pilot projects are under way that will contribute to answering some of the many technical and policy challenges that need to be addressed. To ensure the broadest possible availability of information related to FDA's Sentinel Initiative and to encourage public participation in the initiative, FDA is announcing the opening of a docket to receive and make available to the public reports and other information received by FDA related to the Sentinel Initiative. FDA is making this information available in the docket listed at the top of this notice, as well as on FDA's Sentinel Web page at *http://www.fda.gov/oc/initiatives/advance/sentinel/*.

FDA is interested in receiving input from interested parties, including individuals, and encourages those parties to submit to this docket relevant views and perspectives on the information included in the docket or on any other aspect of the Sentinel Initiative.

As reports and other relevant information are submitted to the agency, FDA will make them available to the public by placing them in the docket and posting them on the Sentinel Web page. Those persons wishing to provide their views and perspectives are encouraged to send their input to the docket for broad public consideration.

II. Documents Being Submitted With This Notice

FDA is making available with this notice the first of a series of documents containing reports and other information related to the Sentinel Initiative. This document contains a report from the Group Health Cooperative Center for Health Studies as a result of the contract awarded on Evaluation of Existing Methods for Safety Signal Identification for the Sentinel Initiative.

III. Submission of Input on the Contents of This Docket

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic views and perspectives regarding this information. Submit a single copy of electronic submissions or two paper copies of any mailed submissions, except that individuals may submit one paper copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Received submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Electronic comments or submissions will be accepted by FDA only at *http://www.regulations.gov*.

Dated: April 30, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–10555 Filed 5–6–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; NHLBI Health Information Center's Revolving Customer Satisfaction Survey

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung and Blood Institute (NHLBI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: NHLBI Health Information Center's Revolving Customer Satisfaction Survey. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* The purpose of this survey is to identify those areas in which services provided by the NHLBI Health Information Center (HIC) to health professionals, patients and their families, and the general public are outstanding and areas where improvements are needed. That information will be used to formulate programs, processes, training, and enhancements to raise the level of customer satisfaction with the services provided by the NHLBI HIC. With subsequent surveys, data will demonstrate whether gains have been made in areas for improvement and if new customer needs must be addressed. *Frequency of Response:* Twice a year. *Affected Public:* Individuals. *Type of Respondents:* Individuals who contact the NHLBI HIC by telephone or e-mail during each 1-month data collection period. The annual reporting burden is as follows: *Estimated Number of Respondents:* 99; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 0.05; and *Estimated Total Annual Burden Hours Requested:* 9.9. The annualized cost to respondents is estimated at: $242.15. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Type of respondent	Estimated number of respondents	Annual frequency of response	Average burden hours per response	Estimated total annual burden hours requested
General Public	43	2	0.05	4.3
Private Companies	14	2	0.05	1.4
Public Sector Groups	13	2	0.05	1.3
Health Professionals	29	2	0.05	2.9
Totals	99			9.9

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Ann M. Taubenheim, Principal Investigator, National Heart, Lung, and Blood Institute, Office of Communications and Legislative Activities, NIH, 31 Center Drive, Building 31, Room 4A10, Bethesda, MD 21045, or call non-toll-free number 301–496–4236 or e-mail your request, including your address, to *taubenha@nhlbi.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 28, 2009.

Ann M. Taubenheim,

Principal Investigator, NHLBI.

[FR Doc. E9–10586 Filed 5–6–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Novel Inhibitors of Bone Morphogenetic Proteins

Description of Technology: Bone Morphogenetic Proteins (BMPs) are signaling molecules that are central in a variety of biological processes, but were first recognized for their role in inducing bone and cartilage development. Abnormal BMP signaling has been implicated in the pathogenesis of a class of joint disorders known as spondyloarthropathies which includes

ankylosing spondylitis, psoriatic arthritis, reactive arthritis, and arthritis associated with inflammatory bowel disease. Therefore, inhibitors and modulators of BMP signaling may be useful in managing these disorders. Moreover, the BMPs and their antagonists have now been implicated in myriad cell and tissue differentiation and fate specification processes, extending their utility far beyond orthopedic and rheumatologic applications. Scientists at the Food and Drug Administration, National Institutes of Health and Katholieke Universiteit Leuven have discovered a novel inhibitor of BMPs called Secreted Modular Calcium Binding protein (SMOC) which is unrelated to known BMP inhibitors.

This technology relates to a method for treating disorders including joint disorders by administering a SMOC polypeptide to induce intracellular mitogen activated protein (MAP) kinase activity to effect a reduction of BMP signaling activity in the cells of a patient. It also encompasses methods to manipulate differentiation processes regulated by BMPs. One prominent example is the specification of neural, as opposed to epithelial, cell fate.

Applications

- Treatment of joint diseases.
- Manipulation of tissue fate specification *in vitro*, alone or in combination with other materials, in production of therapeutic cells and tissues.

Advantages

- Ability to interrupt BMP signaling by a novel mechanism;
- Predictable synergy with other BMP antagonists;
- No indication of being immunosuppressive;
- In some instances SMOC is associated with extracellular matrix molecules, allowing for spatially restricted BMP antagonism not possible with diffusible factors such as noggin.

Development Status: Early stage.

Market: Modulation of BMP signaling by secreted inhibitors is involved in formation of the body axis, limbs and joints, all organs, and nervous tissue, to name a few. The applications of SMOC in conjunction with other growth factors *in vitro* in various developmental programs to produce therapeutic cells and/or tissues are therefore numerous. In addition, BMPs are involved in many disorders in man, and modulating their activities may provide a therapeutic benefit for a number of diseases and disorders such as arthritis and spondyloarthropathies.

Inventors: Malcolm C. Moos *et al.* (CBER/FDA), Frank P. Luyten (NIDCR).

Publications: None related to this invention.

Patent Status: U.S. Provisional Application No. 61/086,679 filed 06 Aug 2008 (HHS Reference No. E–338–2005/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Surekha Vathyam, PhD; 301–435–4076; *vathyams@mail.nih.gov*.

Salcut-NH2: A Novel Target for Development of Anti-Tumorigenic, Anti-Angiogenic Therapeutics and Diagnostics

Description of Technology: Salcut-NH2, a novel amidated peptide derived from the Apelin proprotein, is shown to induce the proliferation of cells. Uncontrolled cell proliferation is the salient feature of cancer. Thus, therapeutics that stop this aberrant cell division are very desirable. Salcut-NH2 can be the basis for developing novel inhibitors of cancer growth such as modified peptide antagonists like salcut-glycine (salcut-Gly). Alternately, salcut-NH2 could be the target of antibody therapies that block its activity. In some instances, such as wound healing, inducing cell proliferation would be advantageous. It also has been demonstrated that salcut-NH2 induces angiogenesis so it may also have application as a topically administered therapeutic for speeding the healing of skin wounds. Finally, increasing levels of salcut-NH2 in body fluids may be reflective of disease progression. A diagnostic kit for salcut-NH2 could potentially be developed for the prognosis of a variety of diseases associated with aberrant cell proliferation or angiogenesis.

Applications

- Development of therapeutics that inhibit cancer growth or diseases related to aberrant angiogenesis.
- Topical therapeutic to hasten wound healing.
- Diagnostic for the prognosis of cancer or diseases related to aberrant growth of blood vessels.

Advantages

- Naturally derived peptide and thus negligible immunogenicity.
- Amidation makes salcut-NH2 resistant to proteases and increases its availability.
- Small peptides are readily excreted facilitating measurement of salcut-NH2 for diagnostic purposes.

Development Status: Early stage; pre-clinical data available.

Markets:

- Cancer is the second most common cause of death in the U.S., exceeded only by heart disease. In the U.S., cancer accounts for 1 of every 4 deaths and more than 2.4 million new cancer cases were expected to be diagnosed in 2008.
- Age-related macular degeneration (AMD) is a degenerative disease of the retina that eventually leads to a loss of vision. The wet form of AMD is the most common and is characterized by the abnormal growth of retina blood vessels and results in a rapid loss of central vision. It is estimated that AMD affects 1.75 million people in the United States.

Inventors: Frank Cuttitta *et al.* (NCI).

Publications: None related to this invention.

Patent Status: U.S. Provisional Application No. 61/156,351 filed 27 Feb 2009 (HHS Reference No. E–179–2008/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Surekha Vathyam, PhD; 301–435–4076; *vathyams@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute Angiogenesis Core Facility is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize (1) Identification of new biological functions for Salcut-NH2 or (2) Development of compounds that suppress or augment Salcut-NH2 bioactivity. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Novel Oligonucleotides for Treatment of Human Cancer

Description of Technology: Human endogenous retroviruses (HERVs) are remnants of retroviruses that invaded and integrated into the human genome 6–15 million years ago. One significant type of HERV is ERV–9; approximately 5% of the total human genome comprises sequences from this retrovirus family. The human genome contains approximately 50 copies of ERV–9 along with 3000–4000 copies of solitary elements of ERV–9 regulatory regions, called long terminal repeats (LTRs). The solitary LTRs contain promoter and enhancer elements that drive expression of genes located proximally to the LTR. Therefore, insertion of an ERV–9 LTR proximal to an oncogene could initiate carcinogenesis.

This invention relates to the use of antisense and sense oligonucleotides (oligos) targeting the RNAs of ERV–9

LTR as a treatment for various cancers, including human breast, liver, prostate, and myeloid cancers and fibrosarcomas. The inventors have shown that the ERV–9 LTR sense and antisense oligos can inhibit cancer cell proliferation *in vitro* more efficiently than the antisense oligos of Bcl-2 (G3139) and telomerase (GRN163), both of which are currently in cancer clinical trials. The oligos have minimal effects on the proliferation of primary normal human cells *in vitro.* These oligos have potential as a new therapeutic agent to suppress tumor cell growth, either when used alone or in conjunction with other antisense oligos or with chemotherapeutic agents such as VePesid. Furthermore, sense and antisense RNA transcripts of ERV–9 LTR were detected in many human normal and tumor cells in this invention. The sense and antisense RNA may form double stranded RNA and act as siRNA to regulate gene expression.

Applications

- Therapeutic oligos of the invention can be used to treat variety of cancers including, but not limited to, breast, liver, myeloid and prostate cancers and fibrosarcomas.
- The oligos can be used either singly or as adjuvant therapy with chemotherapeutic agents.
- ERV–9 LTR related cancers can be diagnosed by comparative analysis of the levels of ERV–9 LTR RNAs in tumors versus those of healthy tissues.

Advantages

- Greater inhibition of cell proliferation by oligos of the invention compared to the Bcl-2, telomerase and MDM2-specific antisense oligos which are currently in development as cancer therapies.
- The therapeutic effect of the oligos is specific for cancer cells as the oligos do not significantly alter proliferation of normal human cells.

Development Status: In vivo testing of therapeutic sense and antisense oligos in mouse xenograft models has been successfully conducted.

Market: Cancer is the second leading cause of death in the United States. More than 1 million Americans are diagnosed with cancer each year.

Inventors: Lai Xu (FDA/CDER), Abdel Elkahloun (NHGRI), Fabio Candotti (NHGRI), Amy Rosenberg. (FDA/CDER)

Publications: None related to invention have been published.

Patent Status: U.S. Provisional Application No. 61/191,911 filed 11 Sep 2008 (HHS Reference No. E–092–2008/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Surekha Vathyam, PhD; 301–435–4076; *vathyams@mail.nih.gov*.

Dated: April 30, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–10549 Filed 5–6–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cancer Pathobiology ARRA CR.

Date: May 19, 2009.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892. 301–435–1779. *riverase@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: Biological Chemistry and Macromolecular Biophysics; Integrated Review Group, Biochemistry and Biophysics of Membranes Study Section.

Date: May 28–29, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Nuria E. Assa-Munt, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics; Integrated Review Group, Macromolecular Structure and Function—B Study Section.

Date: May 28–29, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Arnold Revzin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7824, Bethesda, MD 20892, (301) 435–1153, *revzina@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—A Study Section.

Date: May 28–29, 2009.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Samuel C. Edwards, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892. (301) 435–1152. *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering Member Conflicts.

Date: May 29, 2009.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ping Fan, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892. 301–435–1740. *fanp@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 30, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–10529 Filed 5–6–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Prenatal Programming.

Date: June 2, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Dennis E. Leszczynski, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Exeuctive Blvd., Rm. 5B01, Bethesda, MD 20892, (301) 435–6884, *leszczyd@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 30, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–10607 Filed 5–6–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Clinical Trials Subcommittee of the National Advisory Neurological Disorders and Stroke Council, previously scheduled for May 27, 2009, 6 p.m. to 7:30 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on April 22, 2009, 74FRN18389.

The closed session of the Clinical Trials Subcommittee meeting will now be held on May 28, 2009 from 8 a.m. to 9:45 a.m. and the open session will be held on May 28, 2009 from 9:45 a.m. to 10 a.m. in Building 31 on the NIH Campus. The meeting is partially Closed to the public.

Dated: April 29, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–10423 Filed 5–6–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Insulin and IFG–1 Signaling Effects on Mouse Lifespan.

Date: June 11, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elaine Lewis, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301–402–7707. *elainelewis@nia.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel; Regulation of Bone Mass Accrual by Serotonin.

Date: June 22, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Rebecca J. Ferrell, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814. 301–402–7703. *ferrellrj@mail.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel; Alzheimer's Disease Drug Development.

Date: July 7, 2009.

Time: 11:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Aging, Gateway Building Room 2C–212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander Parsadanian, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892. 301–402–7703. *PARSADANIANA@NIA.NIH.GOV*.

Name of Committee: National Institute on Aging Special Emphasis Panel; Evaluation of Medicare.

Date: July 29, 2009.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jeannette L. Johnson, PhD, Scientific Review Officer, National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *JOHNSONJ9@NIA.NIH.GOV*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 30, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–10600 Filed 5–6–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Advisory Committee to the Director, NIH.

The meeting will be open to the public, with attendance limited to space

available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, NIH.

Date: June 4, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: Among the topics proposed for discussion are: (1) NIH Director's Report; (2) NIH Director's Council of Public Representatives Liaison Report; and (3) other business of the Committee.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Penny W. Burgoon, PhD, Senior Assistant to the Deputy Director, Office of the Director, National Institutes of Health, 1 Center Drive, Building 1, Room 109, Bethesda, MD 20892, 301–451–5870, *burgoonp@od.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.nih.gov/about/director/acd.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: April 30, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–10528 Filed 5–6–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: SAMHSA Fetal Alcohol Spectrum Disorders Center for Excellence Screening and Brief Intervention Evaluation—New

Since 2001, SAMHSA's Center for Substance Abuse Prevention has been operating the SAMHSA Fetal Alcohol Spectrum Disorders (FASD) Center for Excellence. The purpose of the FASD Center is to prevent FASD and improve the treatment of FASD. The FASD Center's activities include providing training, technical assistance, and subcontracts to increase the use of effective evidence-based interventions.

The FASD Center will be integrating Screening and Brief Intervention (SBI) for pregnant women through service delivery organizations and will be evaluating the results. Seven sites will implement the SBI program operated through WIC or Healthy/Health Start. Using the protocol developed by O'Connor and Whaley, each of the participating WIC and Healthy Start programs will be screening pregnant women to identify those who are currently drinking. The SBI focuses on 10- to 15-minute sessions of counseling by a counselor who will use a scripted manual to guide the intervention. Participants in the SBI will be assessed at each visit (to monitor alcohol use), referred for additional services to support their efforts to stop drinking, and will be provided with the 10–15 minute intervention. Clients will be followed up until their 36th week of pregnancy.

At baseline, a screening tool will be administered by the WIC or Healthy/Health Start counselor to assess pregnant women at the participating sites or health care delivery programs. Women will be assessed for risk using the T–ACE or TWEAK screening instruments which have been used successfully with pregnant women. Both quantity and frequency of drinking will be assessed. In addition, basic demographic data will be collected (age, race/ethnicity, education, and marital status) at baseline by participating sites but no personal identification information will be transmitted to SAMHSA.

On a monthly basis, as clients return for their WIC or Healthy/Health Start program counseling session, follow-up data will be collected by the WIC or Healthy Start counselor. At each monthly follow-up visit, the quantity and frequency of drinking will be assessed and the client's goals for drinking will be recorded. In addition, process level variables will be assessed to understand how the program is being implemented (*e.g.*, whether SBI was delivered; what referrals were made; which referral services were received). At the 36th week of pregnancy, the client will be asked for permission to place her record from this program into her infant's medical record (upon delivery) and quantity and frequency of drinking will be assessed.

The data collection is designed to evaluate the implementation of the proposed Screening and Brief Intervention by measuring whether abstinence from alcohol is achieved. Furthermore, the project will include process measures to assess whether and how the intervention was provided.

ESTIMATED ANNUALIZED BURDEN HOURS

Screening tool/activity	Number of respondents	Number of responses per respondent	Average burden per response	Total burden hours per collection
Client Surveys: Assessment/Baseline Data Collection (Form A, B or C)	3,428	1	.25	857
Client Surveys: Monthly Follow-up (85% of baseline x 4 months maximum) (Form D, E and F)	2,914	4	.21	2,448
Assessment Data Collection at 36th week (85% of baseline) (Form D, G, and H)	2,914	1	.16	466

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Screening tool/activity	Number of respondents	Number of responses per respondent	Average burden per response	Total burden hours per collection
Total	3,428			3,771

Written comments and recommendations concerning the proposed information collection should be sent by June 8, 2009 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: April 29, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–10608 Filed 5–6–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5313–N–01]

Notice of Availability: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009; Neighborhood Stabilization Program Technical Assistance Under the American Recovery and Reinvestment Act of 2009

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD announces the availability on its website of the application information, submission deadlines, funding criteria, and other requirements for the FY2009 Neighborhood Stabilization Program Technical Assistance (NSP–TA) under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, approved February 17, 2009) (the Recovery Act). The Recovery Act authorizes $50 million for HUD's NSP–TA program, the purpose of which is to provide technical assistance to achieve the highest performance and results for HUD's Neighborhood Stabilization Program. The notice providing information regarding the application process, funding criteria and eligibility requirements is available on the HUD Web site at *http://www.hud.gov/recovery*.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 7th Street, SW., Washington, DC 20410, telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Gimont at (202) 401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.)

Dated: April 14, 2009.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. E9–10688 Filed 5–6–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5321–N–01]

Notice of Availability: Notice of Funding Availability (NOFA) for the Neighborhood Stabilization Program 2 Under the American Recovery and Reinvestment Act, 2009

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD announces the availability of, and funding criteria for, approximately $1.93 billion available in competitive grants for the Neighborhood Stabilization Program 2 (NSP2) authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, approved February 17, 2009). The purpose of this assistance is to stabilize neighborhoods whose viability has been and continues to be damaged by the economic effects of properties that have been foreclosed upon and abandoned. The NOFA establishing program requirements and waivers is available on the HUD Web site at *http://www.hud.gov/recovery*.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, Room 7286, 451 Seventh Street, SW., Washington, DC 20410, telephone number (202) 708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. FAX inquiries may be sent to Mr. Gimont at (202) 401–2044. (Except for the ''800'' number, these telephone numbers are not toll-free.)

Dated: April 30, 2009.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. E9–10687 Filed 5–6–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5306–FA–01]

Announcement of Funding Awards for Fiscal Year 2008 for the Housing Choice Voucher Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of Fiscal Year (FY) 2008 awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year (FY) 2008 to housing agencies (HAs) under the Section 8 housing choice voucher program. The purpose of this notice is to publish the names, addresses, and the amount of the awards to HAs for non-competitive funding awards for housing conversion actions, public housing relocations and replacements, moderate rehabilitation replacements, and HOPE VI voucher awards.

FOR FURTHER INFORMATION CONTACT: Danielle Bastarache, Director, Office of Housing Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4228, Washington, DC 20410–5000, telephone (202) 402–0477. Hearing- or speech-impaired individuals may call HUD's TTY number at (800) 927–7589. (Only the ''800'' telephone number is toll-free.)

SUPPLEMENTARY INFORMATION: The regulations governing the housing choice voucher program are published at 24 CFR part 982. The regulations for allocating housing assistance budget authority under Section 213(d) of the Housing and Community Development Act of 1974 are published at 24 CFR part 791, subpart D.

The purpose of this rental assistance program is to assist eligible families to pay their rent for decent, safe, and sanitary housing. The FY2008 awardees announced in this notice were provided Section 8 funds on an as-needed, non-competitive basis, i.e., not pursuant to the provisions of a Notice of Funding Availability (NOFAs). Tenant protection voucher awards made to PHAs for program actions that displace families living in public housing were made on a first-come, first-served basis in accordance with PIH Notice 2007–10, Voucher Funding in Connection with the Demolition or Disposition of Occupied Public Housing Units. Announcements of awards provided under the NOFA process for mainstream housing and designated housing programs will be published in a separate **Federal Register** notice.

Awards published under this notice were provided (1) to assist families living in HUD-owned properties that are being sold; (2) to assist families affected by the expiration or termination of their project-based Section 8 and moderate rehabilitation contracts; (3) to assist families in properties where the owner has prepaid the HUD mortgage; (4) to provide relocation housing assistance in connection with the demolition of public housing; (5) to provide replacement housing assistance for single room occupancy (SRO) units that fail housing quality standards (HQS); and (6) to assist families in public housing developments that are scheduled for demolition in connection with a HUD-approved HOPE VI Revitalization or Demolition Grant. Limited administrative fees were added to each assignment for the administration of housing choice vouchers awarded under this notice. Awards made subsequent to the Consolidated Appropriations Act, 2008, are assigned administrative fees quarterly under a separate process. Special housing fees were included for applicable Housing tenant protection awards.

PHAs awarded housing choice vouchers in connection with a public housing demolition/disposition plan were authorized to use their available net restricted assets (NRA) to offset the required budget authority for units requested, if the PHA had a significant accumulation of unspent housing assistance payment funds available.

For NRA criteria, the Department determined that the amount of total January 1, 2008, NRA remaining after offsets exceeded 17% of CY 2008 eligibility for PHAs with 251 through 1000 units or 8.5% for PHAs with over 1000 units could be used to fund tenant protection actions. For PHAs with 250 or fewer units, HUD did not use NRA for tenant protection needs. PHAs that were awarded vouchers for public housing relocation or replacement and HOPE VI tenant protection, and whose budget authority is indicated with an asterisk, were awarded minimal funds for authority due to the use of NRA to fully or partially fund their tenant protection voucher needs.

The Department awarded total new budget authority of $146,833,794 for 19,605 housing choice vouchers to recipients under all of the above-mentioned categories. In addition, HUD authorized 18 PHAs to use a total of $15,560,146 in net restricted assets to offset awards made in FY 2008. The total cost of vouchers awarded is $162,393,940, which includes $2,932,211 that was provided from the HOPE VI account.

In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as shown in Appendix A alphabetically by State then by PHA name.

Dated: April 27, 2009.

Paula O. Blunt,

General Deputy Assistant, Secretary for Public and Indian Housing.

SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2008

Housing agency	Address	Units	Award
Public Housing Tenant Protection Mod Rehab Replacements			
HA OF SELMA	P.O. BOX 950, SELMA, AL 36702	1	$3,767
HA OF TUSCALOOSA	P.O. BOX 2281, TUSCALOOSA, AL 35403	19	82,329
HA OF BESSEMER	P.O. BOX 1390, BESSEMER, AL 35021	11	63,437
SAN FRANCISCO HA	440 TURK ST, SAN FRANCISCO, CA 94102	1	5,198
COUNTY OF LOS ANGELES HA	2 CORAL CIRCLE, MONTEREY PARK, CA	56	552,263
CITY OF LOS ANGELES HA	2600 WILSHIRE BLVD, 3RD FL, LOS ANGELES, CA 90057	19	170,494
COUNTY OF MONTEREY HA	123 RICO ST, SALINAS, CA 93907	7	55,678
SAN JOSE HA	505 WEST JULIAN ST, SAN JOSE, CA 95110	1	12,879
COUNTY OF SANTA CLARA HA	505 WEST JULIAN ST, SAN JOSE, CA 95110	4	51,516
ALAMEDA COUNTY HA	22941 ATHERTON ST, HAYWARD, CA 94541	2	13,438
SANTA CRUZ COUNTY HA	2931 MISSION ST, SANTA CRUZ, CA 95060	22	234,093
COUNTY OF SAN DIEGO	3989 RUFFIN RD, SAN DIEGO, CA 92123	2	9,546
CITY OF HARTFORD	550 MAIN ST, HARTFORD, CT 06103	5	39,735
CONN DEPT OF SOCIAL SERVICES.	25 SIGOURNEY ST, 9TH FL, HARTFORD, CT 06105	6	52,741
DISTRICT OF COLUMBIA HA	1133 NORTH CAPITOL ST, NE, WASHINGTON, DC 20002	119	1,435,940
MIAMI DADE HA	1401 NW 7TH ST, MIAMI, FL 33125	197	1,621,024
HA ATLANTA GA	230 JOHN WESLEY DOBBS AVE, NE, ATLANTA, GA 30303	27	258,925
CITY OF DES MOINES MUNIC HA	100 EAST EUCLID, STE 101 DES MOINES, IA 50313	6	27,796
NEW ORLEANS HA	4100 TOURO ST, NEW ORLEANS, LA 70122	21	90,096
SHREVEPORT HAORITY	2500 LINE AVE, SHREVEPORT, LA 71104	20	88,353
COMM DEV PROG COMM OF MA, EOCD.	100 CAMBRIDGE ST, BOSTON, MA 02114	39	410,492
MAINE STATE HA	353 WATER ST, AUGUSTA, ME 04330	16	91,010
MINNEAPOLIS PHA	1001 WASHINGTON AVE NORTH, MINNEAPOLIS, MN 55401	3	2,395
ST. LOUIS HA	4100 LINDELL BLVD, ST. LOUIS, MO 63108	3	19,520

SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2008—Continued

Housing agency	Address	Units	Award
HA WINSTON-SALEM	500 WEST FOURTH ST, STE 300, WINSTON-SALEM, NC 27101	36	204,401
ALBUQUERQUE HA	1840 UNIVERSITY BLVD, SE, ALBUQUERQUE, NM 87106	1	5,494
HA OF MECHANICVILLE	HARRIS AVE, MECHANICVILLE, NY 12118	9	46,746
HA OF BEACON	1 FORRESTAL HEIGHTS, BEACON, NY 12508	1	2,221
Section 8 Rental Assistance Programs Announcement of Awards for Fiscal Year 2008			
TOWN OF AMHERST	1195 MAIN ST, BUFFALO, NY 14209	6	25,934
CITY OF BUFFALO	470 FRANKLIN ST, BUFFALO, NY 14202	59	261,743
CINCINNATI METRO HA	16 WEST CENTRAL PKWY, CINCINNATI, OH 45210	15	92,183
HA OF JACKSON COUNTY	2231 TABLE ROCK RD, MEDFORD, OR 97501	1	4,966
JOSEPHINE HSG COMMUNITY	P.O. BOX 1630, GRANTS PASS, OR 97528	5	23,079
HA OF THE CITY OF PITTSBURGH.	200 ROSS ST, PITTSBURGH, PA 15219	1	6,497
DAUPHIN COUNTY HA	501 MOHN ST, STEELTON, PA 17113	9	55,539
MUNICIPALITY OF VEGA BAJA	P.O. BOX 4555, VEGA BAJA, PR 00694	22	113,903
PUERTO RICO HSG FIN CORP	CALL BOX 71361–GPO, SAN JUAN, PR 00936	124	629,047
HA OF CHARLESTON	20 FRANKLIN ST, CHARLESTON, SC 29401	3	2,331
HA COLUMBIA	1917 HARDEN ST, COLUMBIA, SC 29204	1	995
HA SOUTH CAROLINA REG NO 1	404 CHURCH ST, LAURENS, SC 29360	72	300,967
S C STATE HSG FIN & DEV	300–C OUTLET POINTE BLVD, COLUMBIA, SC 29210	23	101,902
HA MORRISTOWN	P.O. BOX 49, MORRISTOWN, TN 37815	5	16,012
HOUSTON HA	2640 FOUNTAIN VIEW, HOUSTON, TX 77057	28	206,875
RICHMOND REDEV & HA	901 CHAMBERLAYNE PKWY, RICHMOND, VA 23456	44	315,511
ROANOKE REDEV & HA	2624 SALEM TRNPK, NW, ROANOKE, VA 24017	8	38,676
VERMONT STATE HA	ONE PROSPECT ST, MONTPELIER, VT 05602	28	153,294
CHARLESTON/KANAWHA HA	P.O. BOX 86, CHARLESTON, WV 25321	2	9,757
Total for Mod Rehab Replacements		1,110	8,010,738
PH Relocations/Replacements			
H/A CITY OF MONTGOMERY	1020 BELL ST, MONTGOMERY, AL 36104	148	*1
HA HUNTSVILLE	P.O. BOX 486, HUNTSVILLE, AL 35804	54	235,924
FORT SMITH HA	2100 NORTH 31ST ST, FORT SMITH, AR 72904	155	547,063
CITY OF LOS ANGELES HA	2600 WILSHIRE BLVD, 3RD FL, LOS ANGELES, CA 90057	651	*1
COUNTY OF SANTA CLARA HA	505 WEST JULIAN ST, SAN JOSE, CA 95110	546	7,031,737
HA OF THE CITY AND CO OF DENVER.	777 GRANT ST, DENVER, CO 80203	112	987,410
HA OF THE CITY OF LAKEWOOD	445 S. ALLISON PKWY, LAKEWOOD, CO 80226	159	1,175,748
GRAND JUNCTION HA	1011 NORTH TENTH ST, GRAND JUNCTION, CO 81501	30	142,092
Section 8 Rental Assistance Programs Announcement of Awards for Fiscal Year 2008			
ADAMS COUNTY HA	7190 COLORADO BLVD, 6TH FL, COMMERCE CITY, CO 80022	20	*11,150
NEWARK HA	313 E. MAIN ST, NEWARK, DE 19711	9	*11,137
HA WEST PALM BEACH GEN'L FUND.	1715 DIVISION AVE, WEST PALM BEACH, FL 33407	47	*407,716
HA FORT LAUDERDALE CITY	437 SW 4TH AVE, FORT LAUDERDALE, FL 33315	72	*1
FORT WALTON BEACH H/A	27 ROBINWOOD DR, SW, FORT WALTON BEACH, FL 32548	50	229,956
SARASOTA OFFICE OF HSG AND	111 S ORANGE AVE, SARASOTA, FL 34236	46	330,825
HA OF WINTER HAVEN	2670 AVE C SW, WINTER HAVEN, FL 33880	31	160,630
HA ATLANTA GA	230 JOHN WESLEY DOBBS AVE, NE, ATLANTA, GA 30303	681	6,793,840
CITY OF CARROLLTON HA	P.O. BOX 627, CARROLLTON, GA 30112	42	298,958
NORTHWEST GEORGIA HA	800 NORTH FIFTH AVE, ROME, GA 30162	49	215,838
MENARD COUNTY HA	P.O. BOX 168, PETERSBURG, IL 62675	5	23,009
GARY HA	578 BROADWAY, GARY, IN 46402	225	1,512,432
NEW ORLEANS HA	4100 TOURO ST, NEW ORLEANS, LA 70122	1,542	20,365,040
DETROIT HSG COMMISSION	1301 EAST JEFFERSON AVE, DETROIT, MI 48207	258	*71,211
ST PAUL PHA	555 NORTH WABASHA, STE 400, ST. PAUL, MN 55102	9	70,133
SCOTT COUNTY CDA	323 SOUTH NAUMKEAG ST, SHAKOPEE, MN 55379	14	103,033
THE BAY WAVELAND HA	P.O. BOX 2219, BAY ST. LOUIS, MS 39521	160	847,776
OMAHA HA	540 SOUTH 27TH ST, OMAHA, NE 68105	161	*417,161
KEENE HA	831 COURT ST, KEENE, NH 03431	228	1,900,125
JERSEY CITY HA	400 U.S. HIGHWAY #1, JERSEY CITY, NJ 07306	157	*3
FRANKLIN TOWNSHIP HSG	ONE PARKSIDE ST, SOMERSET, NJ 08873	36	328,311
SANTA FE CIVIC HA	664 ALTA VISTA, SANTA FE, NM 87505	104	750,871
COLUMBUS METRO HA	880 EAST 11TH AVE, COLUMBUS, OH 43211	121	*59,422
DAYTON METRO HA	400 WAYNE AVE, DAYTON, OH 45401	46	225,421
HA OF JACKSON COUNTY	2231 TABLE ROCK RD, MEDFORD, OR 97501	105	*109,729
HA OF PORTLAND	135 SW ASH ST, PORTLAND, OR 97204	158	1,058,821
HA OF YAMHILL	135 NE DUNN PLACE, MCMINNVILLE, OR 97128	40	228,317

SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2008—Continued

Housing agency	Address	Units	Award
HA OF WASHINGTON	111 NE LINCOLN ST, STE 200–L, MS63, HILLSBORO, OR 97124	22	149,706
CENTRAL OREGON REG HA	405 SW 6TH ST, REDMOND, OR 97756	48	*267,528
HA OF MYRTLE BEACH	P.O. BOX 2468, MYRTLE BEACH, SC 29578	14	73,849
Section 8 Rental Assistance Programs Announcement of Awards for Fiscal Year 2008			
METROPOLITAN DEV & HA	701 SOUTH SIXTH ST, NASHVILLE, TN 37202	12	66,059
SAN ANTONIO HA	818 S. FLORES ST, SAN ANTONIO, TX 78295	154	*865,961
MC ALLEN HA	2301 JASMINE AVE, MC ALLEN, TX 78501	74	292,170
MERCEDES HA	1098 W. EXPRESSWAY 83, MERCEDES, TX 78570	64	*224,577
HA OF PORT ARTHUR	P.O. BOX 2295, PORT ARTHUR, TX 77643	152	841,958
WESLACO HA	P.O. BOX 95, WESLACO, TX 78596	89	354,661
ALAMO HA	309 NORTH 9TH ST, ALAMO, TX 78516	12	47,992
HARLINGEN HA	P.O. BOX 1669, HARLINGEN, TX 78551	35	183,642
PHARR HA	211 W AUDREY, PHARR, TX 78577	100	375,792
STARR COUNTY HA	1601 W. CIRCLE DR, RIO GRANDE CITY, TX 78582	34	102,861
HA OF UTAH COUNTY	240 EAST CENTER, PROVO, UT 84606	107	578,836
HARRISONBURG REDEV & HA	286 KELLEY ST, HARRISONBURG, VA 22801	100	474,612
HA OF THE CITY OF BREMERTON.	110 RUSSELL RD P.O. BOX 4460, BREMERTON, WA 98312	214	1,273,882
Total for PH Relocations/Replacements		7,502	52,824,929
SRO Relocations/Replacements			
PHOENIX NEIGHBORHOOD IMPROV.	251 W. WASHINGTON ST, PHOENIX, AZ 85034	20	150,614
BOSTON HA	52 CHAUNCY ST, BOSTON, MA 02111	6	75,526
ST. LOUIS HA	4100 LINDELL BLVD, ST. LOUIS, MO 63108	48	312,382
CUYAHOGA MHA	1441 WEST 25TH ST, CLEVELAND, OH 44113	16	103,730
SPOKANE HA	WEST 55 MISSION ST, STE 104, SPOKANE, WA 99201	37	175,100
Total for SRO Relocations/Replacements		127	817,352
Witness Relocation			
PLYMOUTH HA	P.O. BOX 3537, PLYMOUTH, MA 02361	1	14,652
MONTGOMERY CO HA	10400 DETRICK AVE, KENSINGTON, MD 20895	6	120,256
MUNICIPALITY OF FAJARDO	P.O. BOX 1049, FAJARDO, PR 00738	1	9,708
Total for Witness Relocation		8	144,616
Total for Public Housing Tenant Protection		8,747	61,797,635
Housing Tenant Protection Preservation/Prepayment			
H/A CITY OF MONTGOMERY	1020 BELL ST, MONTGOMERY, AL 361046	88	568,145
CITY OF LOS ANGELES HA	2600 WILSHIRE BLVD, 3RD FL, LOS ANGELES, CA 90057	16	160,989
COUNTY OF SAN DIEGO	3989 RUFFIN RD, SAN DIEGO, CA 92123	226	2,198,745
HA OF THE CITY AND	777 GRANT ST, DENVER, CO 80203	2	20,097
COLORADO SPRINGS HA	P.O. BOX 1575, MC 1490, COLORADO SPRINGS, CO 80901	29	212,846
CITY OF HARTFORD	550 MAIN ST, HARTFORD, CT 06103	11	89,617
CONN DEPT OF SOCIAL SERVICES.	25 SIGOURNEY ST, 9TH FL, HARTFORD, CT 06105	40	371,062
GEORGIA DEPT OF COMM AFFAIRS.	60 EXECUTIVE PARK SO, NE, STE 250, ATLANTA, GA 30329	18	105,260
CITY OF DES MOINES MUN. HA	100 EAST EUCLID, STE 101, DES MOINES, IA 50313	59	318,491
GEORGETOWN HA	139 SCROGGIN PARK, GEORGETOWN, KY 40324	43	227,523
PIKE COUNTY HA	510 MAIN ST, PIKEVILLE, KY 41501	30	112,636
BOWLING GREEN HA	1017 COLLEGE ST., BOWLING GREEN, KY	97	408,665
KENTUCKY HSG CORP	1231 LOUISVILLE RD, FRANKFORT, KY 40601	28	138,162
EAST BATON ROUGE PHA	4731 NORTH BLVD, BATON ROUGE, LA 70806	91	589,065
BOSTON HA	52 CHAUNCY ST, BOSTON, MA 02111	168	2,168,086
HA OF BALTIMORE CITY	417 EAST FAYETTE ST, BALTIMORE, MD 21201	19	149,238
LIVONIA HSG COMMISSION	19300 PURLINGBROOK RD, LIVONIA, MI 48152	60	417,554
MICHIGAN STATE HSG DEV AUTH.	P.O. BOX 30044, LANSING, MI 48909	62	366,388
METROPOLITAN COUNCIL HRA	390 ROBERT ST. NORTH, ST. PAUL, MN 551015	47	368,538
SPRINGFIELD HA	421 WEST MADISON, SPRINGFIELD, MO 65806	11	37,449
HA CITY OF GREENVILLE	1103 BROAD ST, GREENVILLE, NC 27834	46	203,719
NASHUA HA	40 EAST PEARL ST., 1ST FL, NASHUA, NH 03060	95	878,503
NEW JERSEY DCA	101 SOUTH BROAD ST, TRENTON, NJ 08625	33	311,334
THE MUNICIPAL HA	1511 CENTRAL PARK AVE, YONKERS, NY 10710	621	6,115,906

SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2008—Continued

Housing agency	Address	Units	Award
NEW YORK CITY HA	90 CHURCH ST, 9TH FL, NEW YORK, NY	68	642,230
HA OF ROCHESTER	675 WEST MAIN ST, ROCHESTER, NY 14611	252	1,316,519
HA OF BEACON	1 FORRESTAL HEIGHTS, BEACON, NY 12508	177	1,600,512
HA OF ITHACA	800 S PLAIN ST, ITHACA, NY 14850	234	1,335,644
TOWN OF AMHERST	1195 MAIN ST, BUFFALO, NY 14209	129	601,007
THE CITY OF NEW YORK DHPD	100 GOLD ST, RM 501, NEW YORK, NY	1,313	12,818,095
CITY OF POUGHKEEPSIE MUN BLDG.	MEMORIAL SQUARE, POUGHKEEPSIE, NY 12602	99	728,311
NYS HSG TRUST FUND CORP	38–40 STATE ST, ALBANY, NY 12207	222	2,406,913
CUYAHOGA MHA	1441 WEST 25TH ST, CLEVELAND, OH 44113	48	320,790
LUCAS MHA	435 NEBRASKA AVE, TOLEDO, OH 43602	17	95,625
TRUMBULL MHA	4076 YOUNGSTOWN RD SE, WARREN, OH 44484	2	9,531
LAKE MHA	189 FIRST ST, PAINESVILLE, OH 44077	66	435,890
MIAMI METRO HA	1695 TROY-SIDNEY RD, TROY, OH 45373	10	47,232
NEWPORT HA	1 YORK ST, NEWPORT, RI 02840	129	1,321,585
MEMPHIS HA	700 ADAMS AVE, MEMPHIS, TN 38105	113	732,214
HA OF JOHNSON CITY	P.O. BOX 59, JOHNSON CITY, TN 37605	9	38,628
SAN ANTONIO HA	818 S. FLORES ST, SAN ANTONIO, TX 78295	160	1,000,755
CENTRAL TEXAS COG	2180 N. MAIN, BELTON, TX 76513	10	55,627
DANVILLE REDEV AND HA	651 CARDINAL PL, DANVILLE, VA 24541	69	368,764
ROANOKE REDEV AND HA	2624 SALEM TRNPK, NW, ROANOKE, VA 24017	144	724,977
HA OF THE CITY OF VANCOUVER.	2500 MAIN ST, STE 200, VANCOUVER, WA 98660	5	35,877
HA OF THE CITY OF YAKIMA	810 N 6TH AVE, YAKIMA, WA 98902	2	9,711
MARTINSBURG HA	703 PORTER AVE, MARTINSBURG, WV 25401	19	86,329
HA OF THE CITY OF CHEYENNE	3304 SHERIDAN AVE, CHEYENNE, WY 82009	7	36,159
Total for Preservation/Prepayment		5,244	43,306,943
Property Disposition Relocation			
NEW YORK CITY HA	90 CHURCH ST, 9TH FL, NEW YORK, NY	433	4,089,494
Total for Property Disposition Relocation		433	4,089,494
Rent Supplements			
CITY OF DES MOINES MUNIC HA	100 EAST EUCLID, STE 101, DES MOINES, IA 50313	21	114,045
MONTGOMERY CO HA	10400 DETRICK AVE, KENSINGTON, MD 20895	4	49,875
ST. CLOUD HRA	1225 WEST ST GERMAIN, ST. CLOUD, MN 56301	8	40,856
RALEIGH HA	P.O. BOX 28007, RALEIGH, NC 27611	29	234,617
SEATTLE HA	120 SIXTH AVE. NORTH, SEATTLE, WA 98109	7	77,543
HA OF THE CITY OF PASCO &	2505 W. LEWIS ST, PASCO, WA 99301	29	133,895
HA OF SNOHOMISH	12625 4TH AVE WEST, STE 200, EVERETT, WA 98204	6	53,355
HA OF THE CITY OF	810 N 6TH AVE, YAKIMA, WA 98902	13	55,481
Total for Rent Supplements		117	759,667
Terminations/Opt-outs			
HA ANNISTON	P.O. BOX 2225, ANNISTON, AL 36202	12	46,844
HA AUBURN	931 BOOKER ST, AUBURN, AL 36830	22	110,467
CITY OF TUCSON	310 NO COMMERCE PARK LOOP, TUCSON, AZ	93	539,262
CITY OF SCOTTSDALE	7515 E FIRST ST, SCOTTSDALE, AZ 85251	28	207,533
SAN FRANCISCO HA	440 TURK ST, SAN FRANCISCO, CA 94102	190	3,000,724
COUNTY OF LOS ANGELES HA	2 CORAL CIRCLE, MONTEREY PARK, CA 93907	129	787,757
COUNTY OF SAN BERNARDINO HA.	715 E. BRIER DR, SAN BERNARDINO, CA 92408	35	292,465
COUNTY OF SANTA CLARA HA	505 WEST JULIAN ST, SAN JOSE, CA 95110	10	139,832
ALAMEDA COUNTY HA	22941 ATHERTON ST, HAYWARD, CA 94541	32	428,447
ADAMS COUNTY HA	7190 COLORADO BLVD, 6TH FL, COMMERCE CITY, CO 80022	18	136,196
DISTRICT OF COLUMBIA HA	1133 NORTH CAPITOL ST, NE, WASHINGTON, DC 20002	318	3,871,358
MIAMI DADE HA	1401 NW 7TH ST, MIAMI, FL 33125	22	191,481
HA WEST PALM BEACH GEN FUND.	1715 DIVISION AVE, WEST PALM BEACH, FL 33407	94	968,463
HIALEAH H/A	75 EAST 6TH ST, HIALEAH, FL 33010	54	443,519
CITY AND COUNTY OF HONOLULU.	715 SOUTH KING ST, STE 311, HONOLULU, HI 96813	0	12,200
HA TALLAHASSEE	2940 GRADY RD, TALLAHASSEE, FL 32312	144	1,025,755
SIOUX CITY HSG SERVICES DIV	CITY HALL P.O. BOX 447, SIOUX CITY, IA 51102	6	25,388
CITY OF DAVENPORT, IOWA	501 WEST 3RD ST, DAVENPORT, IA 52801	23	136,410
CITY OF AMES DEPT. OF PLAN & HS.	515 CLARK AVE, AMES, IA 50010	7	36,197

SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2008—Continued

Housing agency	Address	Units	Award
NORTH IOWA REG HA	202 1ST ST, SE, STE 203, MASON CITY, IA 50401	8	23,583
IDAHO HSG AND FIN ASSOC	565 W MYRTLE ST, BOISE, ID 83707	9	40,829
CHICAGO HA	60 EAST VAN BUREN ST, 11TH FL, CHICAGO, IL 60605	246	2,462,975
INDIANAPOLIS HA	1919 N. MERIDIAN ST, INDIANAPOLIS, IN 46202	98	645,632
HA FOR THE CITY OF LAFAYETTE.	100 EXECUTIVE DR, STE J, LAFAYETTE, IN 47903	106	484,526
SOMERSET HA	P.O. BOX 449, SOMERSET, KY 42501	16	53,442
KENTUCKY HSG CORP	1231 LOUISVILLE RD, FRANKFORT, KY 40601	10	44,044
EAST BATON ROUGE PHA	4731 NORTH BLVD, BATON ROUGE, LA 70806	48	310,716
CROWLEY HA	P.O. BOX 1347, CROWLEY, LA 70527	35	135,192
NEWELLTON HA	P.O. BOX 1021, NEWELLTON, LA 71357	120	391,085
BOSTON HA	52 CHAUNCY ST, BOSTON, MA 02111	123	1,723,384
DEDHAM HAORITY	163 DEDHAM BLVD, DEDHAM, MA 02026	1	10,428
HA OF BALTIMORE CITY	417 EAST FAYETTE ST, BALTIMORE, MD 21201	150	1,092,414
HA OF PRINCE GEORGE'S COUNTY.	9400 PEPPERCORN PL, STE 200, LARGO, MD 20774	180	2,193,727
BALTIMORE CO. HSG OFFICE	6401 YORK RD, 1 ST FL, BALTIMORE, MD 21210	9	66,792
PORT HURON HSG COMMISSION	905 SEVENTH ST, PORT HURON, MI 48060	24	151,585
MINNEAPOLIS PHA	1001 WASHINGTON AVE NO, MINNEAPOLIS, MN 55401	16	140,666
METROPOLITAN COUNCIL HRA	390 ROBERT ST NORTH, ST. PAUL, MN 55101	19	161,143
SOUTHEAST MN MULTI-COUNTY HRA.	134 EAST SECOND ST, WABASHA, MN 55981	0	14,200
ST. LOUIS HA	4100 LINDELL BLVD, ST. LOUIS, MO 63108	50	348,274
LEES SUMMIT HA	111 SOUTH GRAND, LEES SUMMIT, MO 64063	79	504,389
SPRINGFIELD HA	421 WEST MADISON, SPRINGFIELD, MO 65806	3	11,688
MISS REGIONAL H/A VIII	P.O. BOX 2347, GULFPORT, MS 39505	58	367,514
HA LONG BEACH	P.O. BOX 418, LONG BEACH, MS 39560	14	73,284
HA OF BILLINGS	2415 1ST AVE NORTH, BILLINGS, MT 59101	20	100,847
GREAT FALLS HA	1500 CHOWEN SPRINGS LOOP, GREAT FALLS, MT 59405	12	58,970
HA OF THE CITY OF CHARLOTTE	1301 SOUTH BLVD, CHARLOTTE, NC 28236	10	86,475
HA WINSTON-SALEM	500 WEST FOURTH ST, STE 300, WINSTON-SALEM, NC 27101	16	94,045
HA COUNTY OF WAKE	100 SHANNON ST, ZEBULON, NC 27597	12	108,449
MORTON COUNTY HA	1500 3RD AVE NW, MANDAN, ND 58554	13	42,059
WALSH COUNTY HA	600 E 9TH ST, GRAFTON, ND 58237	1	3,680
UNION CITY HA	3911 KENNEDY BLVD, UNION CITY, NJ 07087	47	353,598
COUNTY OF CLARK HA	5390 EAST FLAMINGO RD, LAS VEGAS, NV 89122	0	646,722
NYS HSG TRUST FUND CORP	38–40 STATE ST, ALBANY, NY 12207	14	148,561
COLUMBUS METRO HA	880 EAST 11TH AVE, COLUMBUS, OH 43211	50	313,858
CINCINNATI METRO HA	16 WEST CENTRAL PKWY, CINCINNATI, OH 45210	14	83,670
LICKING METRO HA	144 WEST MAIN ST, NEWARK, OH 43055	24	128,096
OKLAHOMA HFA	P.O. BOX 26720, OKLAHOMA CITY, OK 73126	158	842,554
HA OF THE COUNTY OF	P.O. BOX 1510, OREGON CITY, OR 97045	0	3,600
HA OF JACKSON COUNTY	2231 TABLE ROCK RD, MEDFORD, OR 97501	49	263,595
LINN-BENTON HA	1250 SE QUEEN AVE, ALBANY, OR 97322	8	41,085
CENTRAL OREGON REG HA	405 SW 6TH ST, REDMOND, OR 97756	6	36,870
ALLEGHENY COUNTY HA	625 STANWIX ST, 12TH FL, PITTSBURGH, PA 15222	12	67,423
EASTON HA	157 SOUTH FOURTH ST, EASTON, PA 18044	4	27,938
ARMSTRONG COUNTY HA	350 S. JEFFERSON ST, KITTANNING, PA 16201	0	6,400
MUNICIPALITY OF CAGUAS	P.O. BOX 907, CAGUAS, PR 00726	34	217,879
H/A OF CHARLESTON	20 FRANKLIN ST, CHARLESTON, SC 29401	2	11,750
BROOKINGS HSG & REDEV AUTH.	1310 MAIN AVE. SOUTH, BROOKINGS, SD 57006	35	116,599
MEMPHIS HA	700 ADAMS AVE, MEMPHIS, TN 38105	138	850,450
TENNESSEE HSG DEV AGENCY	404 J. ROBERTSON PKWY, STE 1114, NASHVILLE, TN 37243	86	470,568
SAN ANTONIO HA	818 S. FLORES ST, SAN ANTONIO, TX 78295	61	372,564
HA OF WACO	4400 COBBS DRIVE, WACO, TX 76703	40	213,363
HA OF LUBBOCK	1708 AVE. G, LUBBOCK, TX 79408	107	591,098
TAYLOR HA	213 DEBUS DR, TAYLOR, TX 76574	64	395,986
TYLER HA	213 N. BONNER, TYLER, TX 75710	9	58,349
LONGVIEW HSG. & COMM. DEV	P.O. BOX 1952, LONGVIEW, TX 75606	18	91,963
FORT STOCKTON HA	121 W. SECOND ST, FORT STOCKTON, TX 79735	58	232,002
DALLAS COUNTY HSG ASSISTANCE.	2377 N. STEMMONS FRWY, STE 200–LB 16, DALLAS, TX 75207	36	242,779
NEWPORT NEWS REDEV & HA	P.O. BOX 797, NEWPORT NEWS, VA 23607	35	235,484
WAYNESBORO REDEV & H/A	1700 NEW HOPE RD, WAYNESBORO, VA 22980	50	206,050
VIRGINIA HSG DEV AUTH	601 SOUTH BELVIDERE ST, RICHMOND, VA 23220	33	269,299
HA CITY OF EVERETT	3107 COLBY AVE, EVERETT, WA 98206	10	85,167
HA CITY OF LONGVIEW	1207 COMMERCE AVE, LONGVIEW, WA 98632	36	200,853
HA OF THE CITY OF MILWAUKEE	809 NORTH BRDWY, MILWAUKEE, WI 53201	41	250,023
BELOIT CDA	220 PORTLAND AVE, BELOIT, WI 53511	0	300
WEST BEND HA	475 MEADOWBROOK DR, WEST BEND, WI 53095	85	394,267
WISCONSIN HSG & ECON DEV	P.O. BOX 1728, MADISON, WI 53701	16	68,687

SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2008—Continued

Housing agency	Address	Units	Award
THE CITY OF FAIRMONT HA	103 12TH ST, FAIRMONT, WV 26555	7	32,104
HA OF THE CITY OF CHEYENNE	3304 SHERIDAN AVE, CHEYENNE, WY 82009	39	201,458
Total for Terminations/Opt-outs		4,169	33,119,377
Total for Housing Tenant Protection		9,969	81,235,046
HOPE VI Vouchers—HOPE VI Vouchers (H6)			
HA OF TEXARKANA	1611 N. ROBISON RD, TEXARKANA, TX 75501	164	650,581
KING COUNTY HA	600 ANDOVER PARK WEST, SEATTLE, WA 98188	78	844,204
HA OF THE CITY OF BREMERTON.	110 RUSSELL RD, BREMERTON, WA 98312	234	1,437,426
Total for HOPE VI Vouchers (H6)		476	2,932,211
TP HOPE VI Vouchers			
PHOENIX NEIGHBORHOOD IMPROV.	251 W. WASHINGTON ST, PHOENIX, AZ 85034	40	301,229
HA ATLANTA GA	230 JOHN WESLEY DOBBS AVE NE, ATLANTA, GA 30303	13	124,992
BOSTON HA	52 CHAUNCY ST., BOSTON, MA 02111	163	*2
JERSEY CITY HA	400 U.S. HIGHWAY #1, JERSEY CITY, NJ 07306	30	*23,803
EASTON HA	157 SOUTH FOURTH ST, EASTON, PA 18044	83	378,440
NEWPORT HA	1 YORK ST, NEWPORT, RI 02840	90	*1
Total for TP HOPE VI Vouchers		419	828,467
Total for HOPE VI Vouchers		895	3,760,678
Grand Total		19,605	146,833,794

[FR Doc. E9–10420 Filed 5–6–09; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5308–N–01]

Notice of Availability: Implementation of the Tax Credit Assistance Program (TCAP)

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: Through this notice, HUD announces the availability on its Web site of the submission requirements, eligible uses, fund commitment and expenditure deadlines, fund distribution, and other requirements for the Tax Credit Assistance Program authorized by Section 2, Division A, Title XII of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, approved February 17, 2009). TCAP funding is eligible to be used for capital investment in eligible Low-Income Housing Tax Credit (LIHTC) projects. A major purpose of TCAP funds is to immediately create jobs or save jobs in danger of being lost due to the current economic crisis. Approximately $2.250 billion is allocated for this purpose under the heading of the HOME Investment Partnerships Program (HOME). The available funding will be allocated to state housing credit agencies based on the percentage of the 2008 HOME appropriation received by the state and local participating jurisdictions within the state. The housing credit agencies of each state, the District of Columbia, and the Commonwealth of Puerto Rico are the only eligible grantees of the TCAP program. The notice establishing the program and application requirements for these funds, allocation information, and eligibility criteria is available on the HUD Web site at: *http://www.hud.gov/recovery/tax-credit.cfm.*

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Director, Office of Affordable Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., Room 7162, Washington DC 20410–3000; telephone 1–800–998–9999. Hearing- or speech-impaired individuals may access the voice telephone number listed above by calling the toll-free Federal Information Relay Service during working hours at 800–877–8339.

Dated: April 14, 2009.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. E9–10686 Filed 5–6–09; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: U.S. Department of Agriculture, Forest Service, Tongass National Forest, Petersburg, AK

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. 3005, of the intent to repatriate a cultural item in the control of the U.S. Department of Agriculture, Forest Service, Tongass National Forest, Petersburg, AK. The unassociated funerary object was removed from Kuiu Island in Southeast Alaska.

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 cultural item. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the unassociated funerary object was made by the U.S. Department of Agriculture, Forest Service professional staff in consultation with representatives of the Klawock Cooperative Association and Organized Village of Kake.

In 1976, an object was removed from a cave in Port Malmesbury, Kuiu Island in Southeast Alaska, by a Forest Service archeologist. The object is a wooden artifact that is believed to be a funerary object since the cave where it was removed from contained human remains and associated funerary objects. The human remains and associated funerary objects that were removed from Port Malmesbury, Kuiu Island were repatriated to the Organized Village of Kake in 1998, and are described in a Notice of Inventory Completion previously published in the **Federal Register** (63 FR 18034–18035, April 13, 1998). Due to an administrative oversight this funerary object was not included.

Historical and ethnographic records, along with Tlingit oral history, indicate that a smallpox epidemic in the 1800s decimated the Tlingit communities on Kuiu Island and the survivors moved to Kake and Klawock. The members of the Killerwhale clan in these villages are the descendants of these survivors.

Officials of the U.S. Department of Agriculture, Tongass National Forest have determined that, pursuant to 25 U.S.C. 3001(3)(B), the one object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the U.S. Department of Agriculture, Tongass National Forest 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 unassociated funerary object and the Klawock Cooperative Association and Organized Village of Kake.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary object should contact Forrest Cole, U.S. Department of Agriculture, Forest Service, Tongass National Forest, Federal Building, Ketchikan, AK 99901–6591, telephone (907) 225–3101, before June 8, 2009. Repatriation of the unassociated funerary object to the Klawock Cooperative Association and Organized Village of Kake may proceed after that date if no additional claimants come forward.

The U.S. Department of Agriculture, Tongass National Forest is responsible for notifying the Central Council of Tlingit & Haida Indian Tribes, Klawock Cooperative Association, Organized Village of Kake, and Sealaska Corporation that this notice has been published.

Dated: April 14, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10577 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Arizona State Museum, University of Arizona, Tucson, AZ

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 Arizona State Museum, University of Arizona, Tucson, AZ. The human remains were removed from an unknown location, possibly in southern Arizona.

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 Arizona State Museum professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona.

On an unknown date, human remains representing a minimum of one individual were removed from an unknown location by Russell Hastings. No additional site information is available. The human remains were given by Mr. Hastings to Roger Carpenter sometime around 1940. In 2007, Mr. Carpenter donated the human remains to the Arizona State Museum (AT–2007–39). No known individual was identified. No associated funerary objects are present.

Mr. Hastings was a contractor who lived in Tucson, AZ, and it is possible that the human remains were found in southern Arizona. The human remains are mummified. In Arizona, mummified remains have been reported exclusively from dry cave sites and are associated with pre-historic Native American cultures. Based on the condition of the human remains, it is more likely than not that they are of Native American ancestry. However, there is insufficient contextual information to culturally affiliate the human remains with any specific, present-day Indian tribe.

Officials of the Arizona State Museum 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 Arizona State Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. In 2008, the Arizona State Museum requested that the Review Committee recommend disposition of the culturally unidentifiable human remains to the Tohono O'odham Nation of Arizona, as aboriginal and historic occupants of lands in southern Arizona. The Review Committee considered the request at its October 11–12, 2008 meeting and recommended disposition of the human remains to the Tohono O'odham Nation. An April 3, 2009, letter from the Designated Federal Official on behalf of the Secretary of the Interior transmitted the authorization for the museum to effect disposition of the human remains of the one culturally unidentifiable individual to the Tohono O'odham Nation of Arizona contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact John McClelland, NAGPRA Coordinator, Arizona State

Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626–2950, before June 8, 2009. Disposition of the human remains to the Tohono O'odham Nation of Arizona may proceed after that date if no additional claimants come forward.

The Arizona State Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona that this notice has been published.

Dated: April 22, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10545 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Colorado Historical Society, Denver, CO

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 and associated funerary objects in the control of the Colorado Historical Society, Denver, CO. The human remains and associated funerary objects were removed from Adams, Douglas, Jefferson, Las Animas, Larimer, Pueblo, and Weld Counties, CO.

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 and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

In 2006 and 2009, a detailed assessment of the human remains and associated funerary objects was made by Colorado Historical Society professional staff in consultation with representatives of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes, Oklahoma (formerly Cheyenne and Arapaho Tribes of Oklahoma); Comanche Nation, Oklahoma; Crow Tribe of Montana; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Paiute Indian Tribe of Utah (Cedar City Band of Paiute, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Tribe of the Wind River Reservation, Wyoming; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.

In August 1998, human remains representing a minimum of one individual were removed from private land in Weld County, CO (Office of Archaeology and Historic Preservation (OAHP) Case Number 153). The human remains were inadvertently discovered while a private citizen was excavating a house foundation and the burial context was destroyed by the backhoe. The human remains were removed by the Weld County Coroner. In November 2001, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The antiquity, age and sex of the individual are unknown.

In June 1999, human remains representing a minimum of one individual were removed from private land in Pueblo County, CO (OAHP Case Number 162). The human remains were exposed by the flooding of the St. Charles River west of Pueblo, and were found against the wall of a canyon, at the edge of the floodplain. A burial investigation was conducted by staff from OAHP with a representative of the Colorado Commission of Indian Affairs present. No known individual was identified. No associated funerary objects are present.

The human remains represent a Native American female estimated to be 20–25 years of age. The estimated antiquity of the human remains is unknown.

In December 2000, human remains representing a minimum of one individual were removed from private land in Adams County, CO (OAHP Case Number 186). The human remains were inadvertently discovered while excavating a new home site in a housing development, which destroyed the burial context. Assessment of the site was conducted by the Adams County Sheriff's Department. In January 2001, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The antiquity, age and sex of the individual are unknown.

In March 2001, human remains representing a minimum of one individual were removed from private land in Las Animas County, CO (OAHP Case Number 191; 5LA.9871). The human remains were inadvertently discovered by private citizens who observed them eroding from a hillside. A burial investigation was conducted by the Las Animas County Sheriff's Office, who removed additional skeletal elements. In June 2001, the human remains were transferred to the Colorado Historical Society. No known individual was identified. The four associated funerary objects are one polished deer antler and three non-human bones.

The human remains represent a Native American male between 35–45 years old. The estimated antiquity of the human remains is unknown.

In 1977, human remains representing a minimum of one individual were removed from the Torres Site (5LA.1310) on private land in Las Animas County, CO (OAHP Case Number 192). In 1977, the site was excavated by the Colorado Archaeological Society. In 2000, the human remains were found in the collections of the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

Artifacts recovered from the site, but not associated with the individual, suggest a date of A.D. 900–1050 for the site, which belongs to the Graneros or Apishapa culture. The age and sex of the individual are unknown.

In August 2001, human remains representing a minimum of two individuals were removed from state land in Douglas County, CO (OAHP Case Number 194; 5DA.1687). The human remains were inadvertently discovered during the construction of the Reuter-Hess Reservoir. A burial investigation was conducted by staff from the URS Corporation. In November 2002, the human remains were transferred to the Colorado Historical Society. No known individuals were identified. The 11 associated funerary objects are 1 bone bead necklace, 1 freshwater mollusk shell fragment, 1 petrified wood uniface, 1 quartzite tertiary flake, 5 petrified wood flakes, and 2 quartzite flakes.

The human remains represent a Native American female (12–18 years old) and a Native American subadult (sex unknown, 6–8 years old). The estimated antiquity of the human remains is A.D. 850–1150.

In November 2001, human remains representing a minimum of one individual were removed from private land in Pueblo County, CO (OAHP Case Number 199; 5PE.4229). The human remains were inadvertently discovered by workers in the bottom of a commercial gravel pit. The area where the human remains had washed out of the gravel was located, and a burial investigation was conducted by OAHP staff, but no further skeletal elements were recovered. In November 2001, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The antiquity, age and sex of the individual are unknown.

In July 2002, human remains representing a minimum of one individual were removed from private land in Las Animas County, CO (OAHP Case Number 206). The human remains were inadvertently discovered by two private citizens in a collapsed basement wall of a home. A site investigation was conducted by the Las Animas County Coroner and the Archaeology Director of Louden Heinritze Museum, who excavated additional skeletal elements. In December 2002, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The human remains represent an elderly Native American female. The estimated antiquity of the human remains is unknown.

In March 1978, human remains representing a minimum of one individual were removed from private land in Arvada, Jefferson County, CO (OAHP Case Number 207). The human remains were inadvertently discovered by a private citizen on his property, during home construction. Officers from the Arvada Police Department were notified and took the human remains into custody. After determining them to be archeological, the Arvada Police delivered them to the Arvada Center to await transfer to the Colorado Native American Heritage Council. The human remains were overlooked and inadvertently discovered in a collections storage area of the Arvada Center in 2003. In November 2003, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The human remains represent a Native American female, 18–24 years of age. The estimated antiquity of the human remains is unknown.

In May 2004, human remains representing a minimum of one individual were removed from municipal land in Adams County, CO (OAHP Case Number 218; 5AM.1733). The human remains were inadvertently discovered by road construction workers. CDOT archeologists conducted the burial investigation. No known individual was identified. The two associated funerary objects are projectile points.

The human remains represent a Native American adult male. Projectile points and radiocarbon dating of charcoal suggest a date of 206040 B.P.

In October 2004, human remains representing a minimum of one individual were removed from private land in Weld County, CO (OAHP Case Number 224; 5WL.4840). The human remains were inadvertently discovered by workers in a gas pipeline trench. A burial investigation was conducted by University of Northern Colorado staff, who removed the remaining skeletal elements. In November 2004, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The human remains represent a Native American adult female. Charcoal associated with the burial was dated to A.D. 690.

In May 2005, human remains representing a minimum of one individual were removed from private land in Weld County, CO (OAHP Case Number 229; 5WL.4883). The human remains were inadvertently discovered on eroded lands adjacent to a campground, and a burial investigation was conducted by OAHP staff. In May 2005, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The human remains represent a Native American adult female, approximately 30 years of age. The estimated antiquity of the human remains is unknown.

Sometime prior to 2006, human remains representing a minimum of two individuals were removed from private land in Buffman Canyon, Larimer County, CO (OAHP Case Number 238; 5LR11716 and 5LR.11717). The landowner conducted the burial investigations and later transferred the human remains to Colorado State University in April 2006. In July 2007, the human remains were transferred to Colorado Historical Society. No known individuals were identified. No associated funerary objects are present.

The human remains represent one Native American female, approximately 45 years old and one Native American male, approximately 35 years old. The female was inadvertently discovered while constructing a house and the male was discovered during quarrying operations by the landowner. The estimated antiquity of the human remains is unknown.

In December 2006, human remains representing a minimum of one individual were removed from private land in Douglas County, CO (OAHP Case Number 245). The human remains were inadvertently discovered while backfilling a large utility trench, and the burial context was destroyed. In February 2007, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The human remains represent a young Native American male. The estimated antiquity of the human remains is unknown.

In March 2004, human remains representing a minimum of one individual were removed from private land in Douglas County, CO (OAHP Case Number 248). The human remains were inadvertently discovered while digging a house foundation trench in Parker. A burial investigation was conducted by the Douglas County Coroner's Office. In April 2007, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The human remains represent a Native American female, 40–60 years old. The estimated antiquity of the human remains is unknown.

In December 2008, human remains representing a minimum of one individual were removed from private land in Weld County, CO (OAHP Case Number 266; 5WL.5995). The human remains were inadvertently discovered while digging a trench to repair a gas pipeline. The burial context had been greatly disturbed. A burial investigation was conducted by OAHP staff, who removed additional skeletal elements. In February 2009, the human remains were transferred to the Colorado Historical Society. No known individuals were identified. The four associated funerary objects are three bifaces and one flake.

The human remains represent a Native American male, 40–50 years of age. The estimated antiquity of the human remains is unknown.

Insufficient geographical, kinship, biological, archeological, linguistic, folkore, oral tradition, historical evidence or other information or expert opinion exists to reasonably establish cultural affiliation of the above individuals with any present-day Indian tribe, although physical anthropological evidence supports Native American identity.

Officials of the Colorado Historical Society have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 18 individuals of Native American ancestry. Officials of the Colorado Historical Society also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 21 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Colorado Historical Society have determined that, pursuant to 25 U.S.C. 3001 (2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.

The Colorado Historical Society has determined that the human remains are ''culturally unidentifiable'' under NAGPRA, 43 CFR 10.9 (e)(6). Federal regulations currently preclude disposition of culturally unidentifiable human remains absent an overriding legal requirement or a recommendation from the Secretary of the Interior, 43 CFR 10.9 (e)(6). In 2006, the Colorado Historical Society, in partnership with the Colorado Commission of Indian Affairs, Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah conducted tribal consultations among the tribes with ancestral ties to the State of Colorado to develop the process for disposition of culturally unidentifiable Native American human remains and associated funerary objects originating from inadvertent discoveries on Colorado State and private lands. As a result of the consultation, a process was developed, *Process for Consultation, Transfer, and Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects Originating From Inadvertent Discoveries on Colorado State and Private Lands*, (2008), (unpublished, on file with the Colorado Office of Archaeology and Historic Preservation). The Native American human remains and associated funerary objects described above originated from inadvertent discoveries on Colorado State and private lands in Adams, Douglas, Jefferson, Las Animas, Larimer, Pueblo, and Weld Counties, CO, and are located in the Great Plains Consultation Region, established by the *Process*.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. On November 3–4, 2006, the *Process* was presented to the Review Committee for consideration. A January 8, 2007, letter on behalf of the Review Committee from the Designated Federal Officer transmitted the provisional authorization to proceed with the *Process* upon receipt of formal responses from the Jicarilla Apache Nation, New Mexico and Kiowa Indian Tribe of Oklahoma, subject to forthcoming conditions imposed by the Secretary of the Interior. On May 15–16, 2008, the responses from the Jicarilla Apache Nation, New Mexico and Kiowa Indian Tribe of Oklahoma were submitted to the Review Committee. On September 23, 2008, the Assistant Secretary for Fish and Wildlife and Parks, as the designee for the Secretary of the Interior, transmitted the authorization for the disposition of culturally unidentifiable human remains according to the *Process* and NAGPRA, pending publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and/or associated funerary objects should contact Sheila Goff, NAGPRA Liaison, Colorado Historical Society, 1300 Broadway, Denver, CO 80203, telephone (303) 866–4531, before June 8, 2009. Disposition of the human remains and associated funerary objects to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and Ute Mountain Tribe of the Ute Mountain Reservation Colorado, New Mexico & Utah may proceed after that date if no additional claimants come forward.

The Colorado Historical Society is responsible for notifying the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation of Wyoming; Cheyenne and Arapaho Tribes, Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico; Paiute Indian Tribe of Utah; Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; San Juan Southern Paiute Tribe of Arizona; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Tribe of the Wind River Reservation, Wyoming; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakoni),

Oklahoma; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: April 13, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10539 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Department of the Interior, Bureau of Indian Affairs, Washington, DC and 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 control of the Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the New York University College of Dentistry, New York, NY. The human remains were removed from Pima County, AZ.

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 Bureau of Indian Affairs and New York University College of Dentistry professional staff in consultation with representatives of the Tohono O'odham Nation of Arizona.

In February 1919, human remains representing a minimum of one individual were removed from a burial area in Sells, which is within the Tohono O'odham Reservation, Pima County, AZ, by E.H. Davis. That same year, Davis donated the human remains to the Museum of the American Indian, Heye Foundation. In 1956, the Museum of the American Indian transferred the human remains to Dr. Theodore Kazamiroff, New York University College of Dentistry. No known individual was identified. No associated funerary objects are present.

Records identify the human remains as an ''Old Papago skeleton exhumed from burial place'' at ''Indian Oasis, Arizona.'' The Papago are also known by the name Tohono O'odham. Indian Oasis is today known as Sells, AZ. The Tohono O'odham consider Sells to be part of their ancestral homelands. The O'odham people are identified in 16th century Spanish documents as living in present-day northern Mexico and southern Arizona. Several documents record Tohono O'odham communities in the region in the late 17th century. The Tohono O'odham remained in southern Arizona, even during the Apache raids of the 19th century, and several winter or ''well villages'' were located in the Sells district. Tohono O'odham residents of Kui Tatk and Tecolote, two defensive villages at the time of the Gadsden Purchase in 1853, resettled into the village of Artesa, which later became part of Sells. In the early 20th century, Sells was identified as Komoktetuvavosit, a well village. In 1916, the Tohono O'odham Reservation was established by Executive Order. In 1937, the Tohono O'odham Nation was recognized under the Indian Reorganization Act.

The assignment of a tribal affiliation of ''Papago'' for the human remains suggests that they date to the late 17th to mid–20th centuries, the time period for which variants of the word ''Papago'' were in use. The cranial morphology of the human remains is consistent with biometric data from early 20th century Tohono O'odham communities. The description of the human remains as an ''old'' skeleton implies that the burial predated the more recent cemetery burials around Sells. Prior to the adoption of cemeteries as burial areas, individuals were placed in protected locations such as cairns. The condition and the weathering pattern of the human remains are consistent with a cairn or other protected burial area.

Officials of the Bureau of Indian Affairs and 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 Bureau of Indian Affairs and 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 Tohono O'odham Nation of Arizona.

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 8, 2009. Repatriation of the human remains to the Tohono O'odham Nation of Arizona may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry and Bureau of Indian Affairs are responsible for notifying the Tohono O'odham Nation of Arizona that this notice has been published.

Dated: April 14, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10544 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Montclair Art Museum, Montclair, NJ

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 and associated funerary objects in the possession of the Montclair Art Museum, Montclair, NJ. The human remains and associated funerary objects were removed from Harbor Springs, Emmett 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 and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Montclair Art Museum professional staff in consultation with representatives of Little Traverse Bay Bands of Odawa Indians, Michigan.

At an unknown date, human remains representing a minimum of one individual were removed from Harbor Springs, Emmett County, MI. Additional circumstances surrounding the donation of the human remains to the Montclair Art Museum are not known. No known individual was identified. The two associated funerary objects are one knife and one fishing spear head.

A handwritten label on the base states that these are ''Indian Relics.'' The label

also states that everything except the spear were found in a grave at Harbor Springs, MI. However, given the storage of the spear head with the human remains and knife, museum officials reasonably believe it to be an associated funerary object and related to the other items.

Harbor Springs is within the territory of the Little Traverse Bay Band of Odawa Indians, Michigan.

Officials of the Montclair Art Museum 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 Montclair Art Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the two objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Montclair Art Museum 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 associated funerary objects 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 and associated funerary objects should contact Twig Johnson, Curator of Native American Art, Montclair Art Museum, 3 South Mountain Ave., Montclair, NJ 07042–1747, telephone (973) 746–5555, ext. 225, before June 8, 2009. Repatriation of the human remains and associated funerary objects to the Little Traverse Bay Bands of Odawa Indians, Michigan may proceed after that date if no additional claimants come forward.

The Montclair Art Museum is responsible for notifying the Little Traverse Bay Bands of Odawa Indians, Michigan that this notice has been published.

Dated: April 3, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10542 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Virginia Department of Conservation and Recreation, Division of State Parks, Richmond, VA and Southwest Virginia Museum Historical State Park, Big Stone Gap, VA

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 and associated funerary objects in the control of the Virginia Department of Conservation and Recreation, Division of State Parks, Richmond, VA, and in the possession of the Southwest Virginia Museum Historical State Park, Big Stone Gap, VA. The human remains and associated funerary objects were removed from caves in Lee, Scott, and Wise Counties, VA.

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 and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Virginia Department of Conservation and Recreation and Virginia Historic Resources professional staff in consultation with representatives of the Federally-recognized Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma. The Virginia Department of Conservation and Recreation and Virginia Historic Resources professional staff also consulted with representatives of the following non-Federally recognized Indian groups: Chickahominy Tribe, Eastern Chickahominy Tribe, Mattaponi Tribe, Monacan Indian Tribe, Nansemond Tribe, Pamunkey Tribe, Rappahannock Tribe, and Upper Mattaponi Tribe.

At unknown dates, human remains representing a minimum of three individuals were removed from various caves in Lee, Scott, and Wise Counties, VA. According to records of the Southwest Virginia Museum Historical State Park, portions of the human remains have possible donation records of 2/7/58, 8/11/53, or 6/23/70, and may have been removed during those times. No known individuals were identified. The nine associated funerary objects are one possible trade item made with glass trade beads, three effigy pipes, one Catlinite pipe, two bird figures, one pot, and one steatite.

At an unknown date, human remains representing a minimum of one individual were removed from a burial cave in Lee County, VA. No known individual was identified. No associated funerary objects are present.

While scientific dating of the human remains was not possible, similar osteological comparisons of prehistoric Native Americans from other mortuary caves in southwest Virginia reveal through radiocarbon dates and artifact evidence that the predominant use of mortuary caves in the region was between circa A.D. 900–1400. Caves used as mortuary facilities for prehistoric Native Americans are known throughout the southeastern United States, and have been commonly documented in the far upper reaches of the Tennessee Valley drainage basin (far southwest Virginia). Mississippian sites of this type appeared almost simultaneously throughout the Southeast around A.D. 850, and were mainly located within river floodplain environments. Archeological scholarship traces Cherokee beginnings back to, at least, the beginning of the Mississippian Period. Many scholars refer to the Cherokee evolving out of the Mississippian tradition in the southern Appalachians to have maintained a continuity of material culture.

In the 1500s, Spanish explorers found a flourishing Cherokee culture that dominated the southern Appalachians. The Cherokees controlled some 140,000 square miles throughout eight present-day southern states, including the counties of southwest Virginia. Further historical evidence of Cherokee territorial control of this area, in modern times, is reflected in the Watauga Treaty of 1775, in which the Cherokee sold the area of present-day southwest Virginia, Tennessee, and Kentucky to Richard Henderson to form the new colony of Transylvania. Both the Cherokee tribe and the colony of Virginia later opposed this land purchase. Today, the rich history and culture of the Cherokee are interpreted at sites and events throughout the region. Regional history books document Cherokee history and many individuals speak of their Cherokee ancestry. Descendants of the

Cherokee are members of the Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; and United Keetoowah Band of Cherokee Indians in Oklahoma.

Officials of the Virginia Department of Conservation and Recreation and Southwest Virginia Museum Historical State Park have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of at least four individuals of Native American ancestry. Officials of the Virginia Department of Conservation and Recreation and Southwest Virginia Museum Historical State Park also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the nine objects described above are reasonably believed to have been place with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Virginia Department of Conservation and Recreation and Southwest Virginia Museum Historical State Park 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 associated funerary objects and the Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; and United Keetoowah Band of Cherokee Indians in Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Sharon Ewing, Virginia Department of Conservation and Recreation/Southwest Virginia Museum Historical State Park, P.O. Box 742, Big Stone Gap, VA 24219, telephone (276) 523–1322, before June 8, 2009. Repatriation of the human remains and associated funerary objects to the Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; and/or United Keetoowah Band of Cherokee Indians in Oklahoma may proceed after that date if no additional claimants come forward.

The Virginia Department of Conservation and Recreation is responsible for notifying the Federally-recognized Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; Eastern Shawnee Tribe of Oklahoma; Shawnee Tribe, Oklahoma; and United Keetoowah Band of Cherokee Indians in Oklahoma, that this notice has been published. The Virginia Department of Conservation and Recreation will also notify the following non-Federally recognized Indian groups: Chickahominy Tribe, Eastern Chickahominy Tribe, Mattaponi Tribe, Monacan Indian Tribe, Nansemond Tribe, Pamunkey Tribe, Rappahannock Tribe, and Upper Mattaponi Tribe.

Dated: April 22, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10541 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Warren Anatomical Museum, Harvard University, Boston, MA

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 and control of Warren Anatomical Museum, Harvard University, Boston, MA. The human remains were removed from the Island of Oahu, HI.

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 Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum professional staff in consultation with representatives of the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs.

In 1843, human remains representing a minimum of one individual were removed from Oahu Island, HI, by J. H. Lyman. The human remains were presented to the Anatomical Museum of the Boston Society for Medical Improvement on an unknown date before 1847. The Anatomical Museum of the Boston Society for Medical Improvement transferred its collection to the Warren Anatomical Museum in 1871. No known individual was identified. No associated funerary objects are present.

Osteological characteristics indicate that the human remains are Native American. Museum documentation states that the human remains were recovered from a cave in a ''volcanic mountain'' on the eastern end of the Island of Oahu in the ''Sandwich Islands.'' ''Sandwich Islands'' is an antiquated term used to describe the islands of Hawaii. Anthropological and historic information indicates that cave interments are consistent with traditional Native Hawaiian mortuary practices. Archeological and historic documentation combined with oral traditions support that the human remains are from an area considered to be part of the aboriginal homelands of ancestral Native Hawaiians. Present-day groups that represent Native Hawaiians for the Island of Oahu are Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs.

Officials of the Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum 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 Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum 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 Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs.

Representatives of any other Indian tribe or Native Hawaiian Organization that believes itself to be culturally affiliated with the human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Ave., Cambridge, MA 02138, telephone (617) 496–3702, before June 8, 2009. Repatriation of the human remains to Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs may proceed after that date if no additional claimants come forward.

The Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum are responsible for notifying the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs that this notice has been published.

Dated: April 28, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10547 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Chelan County Public Utility District, Wenatchee, WA and Museum of Anthropology at Washington State University, Pullman, WA

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 and associated funerary objects in the control of the Chelan County Public Utility District, Wenatchee, WA, and in the physical custody of the Museum of Anthropology at Washington State University, Pullman, WA. The human remains and associated funerary objects were removed from sites along the Rocky Reach Reservoir in Chelan and Douglas Counties, 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 and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by professional staff at the Museum of Anthropology at Washington State University in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington.

In 1954, human remains representing a minimum of one individual were removed from site 45CH53 in Chelan County, WA, by Richard Daugherty during a survey of the Rocky Reach Dam Reservoir. The human remains have been in the possession of the Museum of Anthropology at Washington State University since that time. No known individual was identified. No associated funerary objects are present.

The human remains were in a cairn marked interment of a style common among late Prehistoric Period burials on the Columbia Plateau.

In 1959, human remains representing a minimum of one individual were removed from site 45DO59 in Douglas County, WA, by Alexander Gunkel during a site testing project at the Rocky Reach Dam Reservoir. The human remains have been in the possession of the Museum of Anthropology at Washington State University since that time. No known individual was identified. The 29 associated funerary objects are 1 chipped stone drill, 1 scraper, 3 chipped stone tool tips, 14 olivella shell beads, 1 base of a chipped stone tool, 1 natural rock, 4 lots of flakes, 1 lot of wood fragments, 1 lot of faunal remains, 1 mussel shell pendant, and 1 lot of ochre.

The determination of the cultural affiliation of the human remains is based upon geographical, archeological, oral tradition, and historic evidence. Projectile point types suggest an age ranging from the middle to late Prehistoric Period (about 6,000 years ago) to the Contact Period. The olivella shell beads, red ochre, and mussel shell pendant are funerary objects common in Prehistoric burials on the Columbia Plateau. The human remains and artifacts indicate that they are from the Native people who utilized the Columbia River during the late Prehistoric Period. Descendant communities from the Native people that jointly used the Columbia River are members of the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington.

Officials of the Chelan County Public Utility District and Museum of Anthropology at Washington State University 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 Chelan County Public Utility District and Museum of Anthropology at Washington State University also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 29 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Chelan County Public Utility District and Museum of Anthropology at Washington State University 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 associated funerary objects and the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Mary Collins, Director of the Museum of Anthropology at Washington State University, Pullman, WA 99164–4910, telephone (509) 335–4314, before June 8, 2009. Repatriation of the human remains and associated funerary objects to the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington may proceed after that date if no additional claimants come forward.

The Museum of Anthropology at Washington State University is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington that this notice has been published.

Dated: April 9, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10543 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Colorado Historical Society, Denver, CO

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 Colorado Historical Society, Denver, CO. The human remains were removed from Jefferson and Larimer Counties, CO.

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.

In 2006 and 2009, a detailed assessment of the human remains was made by Colorado Historical Society professional staff in consultation with representatives of the Arapahoe Tribe of

the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes, Oklahoma (formerly Cheyenne and Arapaho Tribes of Oklahoma); Comanche Nation, Oklahoma; Crow Tribe of Montana; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Paiute Indian Tribe of Utah (Cedar City Band of Paiute, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Tribe of the Wind River Reservation, Wyoming; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.

In August 1996, human remains representing a minimum of 19 individuals were seized from a storage locker by the Lakewood Police Department in Jefferson County, CO (Office of Archaeology and Historic Preservation (OAHP) Case Number 125). In November 2001, the human remains were transferred to the Colorado Historical Society. No known individuals were identified. No associated funerary objects are present.

The antiquity, age, sex and origin of the individuals are unknown.

In November 2001, human remains representing a minimum of six individuals were removed from an unknown location (OAHP Case Number 198). The human remains were inadvertently discovered by a homeowner in a box in the home's crawl space and taken to the Jefferson County Coroner's Office. The human remains were reportedly collected by the previous owner from ''a mine'' sometime between 1958 to 1965. In November 2001, the human remains were transferred to the Colorado Historical Society. No known individuals were identified. No associated funerary objects are present.

The human remains represent four adults and two subadults, sex unknown. The estimated antiquity of the human remains is unknown.

At an unknown date, but prior to 2002, human remains representing a minimum of 11 individuals were removed from Colorado State University in Larimer County, CO (OAHP Case Number 200). The exact origin or origins of these individuals are not known. The human remains were claimed as private property by the widow of Dr. Michael Charney, a former professor at the University who died in 1998. The human remains were subsequently taken into custody by the Larimer County Sheriff's Office. Following litigation, in 2006, the human remains, which were initially identified as Native American, were transferred to the Colorado Historical Society by court order to be repatriated in accordance with Colorado State burial law and NAGPRA. No known individuals were identified. No associated funerary objects are present.

The human remains represent four adult males, four adult females, one sub-adult female and two adults whose sex is indeterminate. The estimated antiquity of the human remains is unknown.

In June 2008, human remains representing a minimum of one individual were discovered by a private citizen in Jefferson County, CO (OAHP Case Number 260) during the execution of her deceased father's estate. The exact origin of the individual is unknown. In June 2008, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The antiquity, age, and sex of the individual are unknown.

Insufficient geographical, kinship, biological, archeological, linguistic, folkore, oral tradition, historical evidence or other information or expert opinion exists to reasonably establish cultural affiliation of the individuals described above with any present-day Indian tribe, although physical anthropological evidence supports Native American identity.

Officials of the Colorado Historical Society have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 37 individuals of Native American ancestry. Officials of the Colorado Historical Society also have determined that, pursuant to 25 U.S.C. 3001 (2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.

Colorado Historical Society has determined that the human remains are ''culturally unidentifiable'' under NAGPRA, 43 C.F.R. 10.9 (e)(6). Federal regulations currently preclude disposition of culturally unidentifiable human remains absent an overriding legal requirement or a recommendation from the Secretary of the Interior, 43 C.F.R 10.9 (e)(6). In 2006, the Colorado Historical Society, in partnership with the Colorado Commission of Indian Affairs, Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah conducted tribal consultations among the tribes with ancestral ties to the State of Colorado to develop the process for disposition of culturally unidentifiable Native American human remains and associated funerary objects originating from inadvertent discoveries on Colorado State and private lands As a result of the consultation, a process was developed, *Process for Consultation, Transfer, and Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects Originating From Inadvertent Discoveries on Colorado State and Private Lands*, (2008), (unpublished, on file with the Colorado Office of Archaeology and Historic Preservation). The origins of the Native American human remains described above are unknown, however, they were received through police seizures or private citizens on Colorado State and private lands in Jefferson and Larimer Counties, CO. Jefferson and Larimer Counties are located in the Great Plains Consultation Region, as established by the *Process*.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. On November 3–4, 2006, the *Process* was presented to the Review Committee for consideration. A January 8, 2007, letter on behalf of the Review Committee from the Designated Federal Officer transmitted the provisional

authorization to proceed with the *Process* upon receipt of formal responses from the Jicarilla Apache Nation, New Mexico and Kiowa Indian Tribe of Oklahoma, subject to forthcoming conditions imposed by the Secretary of the Interior. On May 15–16, 2008, the responses from the Jicarilla Apache Nation, New Mexico and Kiowa Indian Tribe of Oklahoma were submitted to the Review Committee. On September 23, 2008, the Assistant Secretary for Fish and Wildlife and Parks, as the designee for the Secretary of the Interior, transmitted the authorization for the disposition of culturally unidentifiable human remains according to the *Process* and NAGPRA, pending publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Sheila Goff, NAGPRA Liaison, Colorado Historical Society, 1300 Broadway, Denver, CO 80203, telephone (303) 866–4531, before June 8, 2009. Disposition of the human remains to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may proceed after that date if no additional claimants come forward.

The Colorado Historical Society is responsible for notifying the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation of Wyoming; Cheyenne and Arapaho Tribes, Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico; Paiute Indian Tribe of Utah; Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; San Juan Southern Paiute Tribe of Arizona; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Tribe of the Wind River Reservation, Wyoming; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakoni), Oklahoma; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: April 13, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10534 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Colorado Historical Society, Denver, CO

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 and associated funerary objects in the control of the Colorado Historical Society, Denver, CO. The human remains and associated funerary objects were removed from Alamosa, Costilla, La Plata, and Saguache Counties, CO.

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 and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

In 2006 and 2009, a detailed assessment of the human remains and associated funerary objects was made by Colorado Historical Society professional staff in consultation with representatives of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes, Oklahoma (formerly Cheyenne and Arapaho Tribes of Oklahoma); Comanche Nation, Oklahoma; Crow Tribe of Montana; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Paiute Indian Tribe of Utah (Cedar City Band of Paiute, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Tribe of the Wind River Reservation, Wyoming; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.

In April 1997, human remains representing a minimum of one individual were removed from private land in Costilla County, CO (Office of Archaeology and Historic Preservation (OAHP) Case Number 132; 5CT.271). The human remains were inadvertently discovered on the surface of the land by a private citizen looking for antler sheds on the Blanca Trinchera Ranch. The human remains were transferred to Colorado College by Costilla County

authorities. In August 2002, the human remains were transferred to the Colorado Historical Society. No known individual was identified. No associated funerary objects are present.

The human remains represent a Native American female estimated to be 35–50 years old. The antiquity of the human remains is unknown.

In June or July 2000, human remains representing a minimum of two individuals were removed from municipal land in Saguache County, CO (OAHP Case Number 182; 5SH.1858). A teenage boy observed the human remains eroding from a road cut, and delivered them to the Saguache County Sheriff's Office. In July 2002, the human remains were transferred to the Colorado Historical Society. No known individuals were identified. No associated funerary objects are present.

The human remains represent one Native American adult (estimated to be 50 years old) and one Native American subadult (estimated to be between the ages of 7 and 11). The antiquity of the human remains is unknown.

In April 2005, human remains representing a minimum of one individual were removed from private land in Saguache County, CO (OAHP Case Number 226; 5SH.2410). The human remains were inadvertently discovered by a contractor excavating a trench for an electrical line in the Baca Grande subdivision. A burial investigation was conducted by OAHP staff, who recovered more skeletal elements. In April 2005, the human remains were transferred to the Colorado Historical Society. No known individual was identified. The four associated funerary objects are two manos, one metate, and one bone awl tip.

The human remains represent an elderly Native American male. The antiquity of the human remains is unknown.

In April 2005, human remains representing a minimum of one individual were removed from municipal land in La Plata County, CO (OAHP Case Number 227; 5LP.7801). Employees of the Durango and Silverton Narrow Gauge Railroad inadvertently discovered the human remains eroding from an embankment along railroad tracks. OAHP staff assessed the site, and Fort Lewis College staff conducted additional excavation. In July 2006, the human remains were transferred to the Colorado Historical Society. No known individual was identified. The one associated funerary object is an Olivella shell bead.

The human remains represent a Native American subadult, estimated to be 2–3 years old. Based on the associated funerary object, the estimated antiquity is 500 B.C. to A.D. 900.

In 1987, human remains representing a minimum of two individuals were removed from county land in Alamosa County, CO (OAHP Case Number 250; 5AL.396). The human remains were inadvertently exposed during road maintenance activities on an Alamosa County road. The Rio Grande National Forest Archaeologist conducted a burial investigation and placed the human remains in the custody of the Anasazi Heritage Center. In 2007, the Bureau of Land Management transferred the human remains to the Colorado Historical Society, since they had not originated from Federal land. No known individuals were identified. The 30 associated funerary objects are 29 juniper beads and 1 partial canid skeleton.

The human remains represent a Native American female, estimated to be 50 years old and one Native American individual, sex and age unknown. The estimated antiquity is unknown.

Insufficient geographical, kinship, biological, archeological, linguistic, folkore, oral tradition, historical evidence or other information or expert opinion exists to reasonably establish cultural affiliation of the above individuals with any present-day Indian tribe, although physical anthropological evidence supports Native American identity.

Officials of the Colorado Historical Society have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of seven individuals of Native American ancestry. Officials of the Colorado Historical Society also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 35 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Colorado Historical Society have determined that, pursuant to 25 U.S.C. 3001 (2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.

Colorado Historical Society has determined that these human remains are ''culturally unidentifiable'' under NAGPRA, 43 CFR 10.9 (e)(6). Federal regulations currently preclude disposition of culturally unidentifiable human remains absent an overriding legal requirement or a recommendation from the Secretary of the Interior, 43 CFR 10.9 (e)(6). In 2006, the Colorado Historical Society, in partnership with the Colorado Commission of Indian Affairs, Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah conducted tribal consultations among the tribes with ancestral ties to the State of Colorado to develop the process for disposition of culturally unidentifiable Native American human remains and associated funerary objects originating from inadvertent discoveries on Colorado State and private lands. As a result of the consultation, a process was developed, *Process for Consultation, Transfer, and Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects Originating From Inadvertent Discoveries on Colorado State and Private Lands*, (2008), (unpublished, on file with the Colorado Office of Archaeology and Historic Preservation). The Native American human remains and associated funerary objects described above originated from inadvertent discoveries on Colorado State and private lands in Alamosa, Costilla, La Plata, and Saguache Counties, CO, and are located in the Southwest Consultation Region, established by the *Process*.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. On November 3–4, 2006, the *Process* was presented to the Review Committee for consideration. A January 8, 2007, letter on behalf of the Review Committee from the Designated Federal Officer transmitted the provisional authorization to proceed with the *Process* upon receipt of formal responses from the Jicarilla Apache Nation, New Mexico and Kiowa Indian Tribe of Oklahoma, subject to forthcoming conditions imposed by the Secretary of the Interior. On May 15–16, 2008, the responses from the Jicarilla Apache Nation, New Mexico and Kiowa Indian Tribe of Oklahoma were submitted to the Review Committee. On September 23, 2008, the Assistant Secretary for Fish and Wildlife and Parks, as the designee for the Secretary of the Interior, transmitted the authorization for the disposition of culturally unidentifiable human remains according to the *Process* and NAGPRA, pending publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and/or associated funerary objects should contact Sheila Goff, NAGPRA Liaison, Colorado Historical Society, 1300 Broadway, Denver, CO 80203, telephone (303) 866–4531, before June 8, 2009. Disposition of the human remains and associated funerary objects to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may proceed after that date if no additional claimants come forward.

The Colorado Historical Society is responsible for notifying the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation of Wyoming; Cheyenne and Arapaho Tribes, Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico; Paiute Indian Tribe of Utah; Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; San Juan Southern Paiute Tribe of Arizona; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Tribe of the Wind River Reservation, Wyoming; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakoni), Oklahoma; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: April 13, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10558 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Colorado Historical Society, Denver, CO

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 and associated funerary objects in the control of the Colorado Historical Society, Denver, CO. The human remains and associated funerary objects were removed from Chaffee, Eagle, Garfield, Montrose, and Ouray Counties, CO.

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 and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

In 2006 and 2009, a detailed assessment of the human remains and associated funerary objects was made by Colorado Historical Society professional staff in consultation with representatives of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes, Oklahoma (formerly Cheyenne and Arapaho Tribes of Oklahoma); Comanche Nation, Oklahoma; Crow Tribe of Montana; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Paiute Indian Tribe of Utah (Cedar City Band of Paiute, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Tribe of the Wind River Reservation, Wyoming; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; and Zuni Tribe of the Zuni Reservation, New Mexico.

In October 1992, human remains representing a minimum of one individual were removed from private land in Ouray County, CO (Office of Archaeology and Historic Preservation (OAHP) Case Number 71; 5QR.1006). The human remains were inadvertently discovered by hikers who observed them eroding from a dry creek bank at the edge of Log Hill Mesa, west of Dallas Creek. A burial investigation was conducted by staff from Western State College, Gunnison, CO. The human remains were transferred to the Colorado Historical Society in July 1994. No known individual was identified. The one associated funerary object is a late prehistoric arrow point fragment.

The human remains represent a Native American male estimated to be 50+ years of age. A charcoal sample in association with the individual yielded a radiocarbon date of 1390 +/- 50 years B.P.

In November 1993, human remains representing a minimum of one individual were removed from private land in Montrose County, CO (OAHP Case Number 100; 5MN.4494). The human remains were inadvertently discovered by a private citizen who

observed them eroding from a stream bank near Colona, CO. A burial investigation was conducted by OAHP staff and additional skeletal elements were recovered in March 1995. No known individual was identified. No associated funerary objects are present.

The human remains represent a Native American female estimated to be in her 50s. The estimated antiquity of the human remains is unknown.

In May 1995, human remains representing a minimum of one individual were removed from private land in Montrose County, CO (OAHP Case Number 111; 5MN.4781). The human remains were inadvertently discovered protruding from a steep slope following a mud slide in the west end of Montrose County. Officials from the Montrose County Sheriff's Department collected them and conducted a burial investigation. The human remains were transferred to the Colorado Historical Society in October 1995. No known individual was identified. No associated funerary objects are present.

The antiquity, age and sex of the individual are unknown.

In April 1997, human remains representing a minimum of one individual were removed from private land in Garfield County, CO (OAHP Case Number 133; 5GF.2432). The human remains were inadvertently discovered while a private citizen was excavating a house foundation in a subdivision near Crystal River. A burial investigation was conducted by OAHP staff. No known individual was identified. The six associated funerary objects are a one-handed mano, a two-handed mano, a hammerstone, a triangular chert biface, a small rounded stone, and a bone awl embedded in the left ear canal of the individual.

The human remains represent a Native American female estimated to be 40–45 years of age. The associated funerary objects suggest an estimated antiquity of A.D. 1–1600.

In 1978, human remains were removed from Eagle County, CO, by Colorado Department of Transportation (CDOT) Staff Archaeologist John Gooding, after discovery by a road improvement crew. In May 1998, human remains representing a minimum of one individual were discovered in a desk at CDOT (OAHP Case Number 148; 5EA.128). The human remains had been inadvertently separated from a Native American individual disinterred in 1978. CDOT staff tried to locate this individual to reunite the skeletal elements, but were unsuccessful and transferred the human remains to the Colorado Historical Society in September 1998. No known individual was identified. No associated funerary objects are present.

Previous work at site 5EA.128 yielded a radiocarbon date of 2910 +/-55 B.P.

In July 2003, human remains representing a minimum of one individual were removed from private land in Chaffee County, CO (OAHP Case Number 213; 5CF.1622). The human remains were inadvertently discovered by a contractor while excavating an access ramp into the foundation of a private residence in a new subdivision west of Buena Vista. A burial investigation was conducted by OAHP staff. The human remains were transferred to the Colorado Historical Society in July 2003. No known individual was identified. No associated funerary objects are present.

The human remains represent a Native American male estimated to be 35–50 years old. Morphological characteristics of the cranium suggest an estimated antiquity of A.D. 100–1870.

Insufficient geographical, kinship, biological, archeological, linguistic, folkore, oral tradition, historical evidence or other information or expert opinion exists to reasonably establish cultural affiliation of the above individuals with any present-day Indian tribe, although physical anthropological evidence supports Native American identity.

Officials of the Colorado Historical Society have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of six individuals of Native American ancestry. Officials of the Colorado Historical Society also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the seven objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Colorado Historical Society have determined that, pursuant to 25 U.S.C. 3001 (2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.

The Colorado Historical Society has determined that the human remains are ''culturally unidentifiable'' under NAGPRA, 43 C.F.R. 10.9 (e)(6). Federal regulations currently preclude disposition of culturally unidentifiable human remains absent an overriding legal requirement or a recommendation from the Secretary of the Interior, 43 C.F.R 10.9 (e)(6). In 2006, the Colorado Historical Society, in partnership with the Colorado Commission of Indian Affairs, Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, conducted tribal consultations among the tribes with ancestral ties to the State of Colorado to develop the process for disposition of culturally unidentifiable Native American human remains and associated funerary objects originating from inadvertent discoveries on Colorado State and private lands. As a result of the consultation, a process was developed, *Process for Consultation, Transfer, and Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects Originating From Inadvertent Discoveries on Colorado State and Private Lands*, (2008), (unpublished, on file with the Colorado Office of Archaeology and Historic Preservation). The Native American human remains and associated funerary objects described above originated from inadvertent discoveries on state and private lands in Ouray, Montrose, Garfield, Eagle and Chaffee Counties, CO, and are located in the Basin and Plateau Consultation Region, established by the *Process*.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. On November 3–4, 2006, the *Process* was presented to the Review Committee for consideration. A January 8, 2007, letter on behalf of the Review Committee from the Designated Federal Officer transmitted the provisional authorization to proceed with the *Process* upon receipt of formal responses from the Jicarilla Apache Nation, New Mexico and Kiowa Indian Tribe of Oklahoma, subject to forthcoming conditions imposed by the Secretary of the Interior. On May 15–16, 2008, the responses from the Jicarilla Apache Nation, New Mexico and Kiowa Indian Tribe of Oklahoma were submitted to the Review Committee. On September 23, 2008, the Assistant Secretary for Fish and Wildlife and Parks, as the designee for the Secretary of the Interior, transmitted the authorization for the disposition of culturally unidentifiable human remains according to the *Process* and NAGPRA, pending publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and/

or associated funerary objects should contact Sheila Goff, NAGPRA Liaison, Colorado Historical Society, 1300 Broadway, Denver, CO 80203, telephone (303) 866–4531, before June 8, 2009. Disposition of the human remains and associated funerary objects to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may proceed after that date if no additional claimants come forward.

The Colorado Historical Society is responsible for notifying the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation of Wyoming; Cheyenne and Arapaho Tribes, Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico; Paiute Indian Tribe of Utah; Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; San Juan Southern Paiute Tribe of Arizona; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Tribe of the Wind River Reservation, Wyoming; Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakoni), Oklahoma; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: April 13, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10560 Filed 5–6–09; 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, NY. The human remains were removed from an unknown location.

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 Choctaw Nation of Oklahoma; Jena Band of Choctaw Indians, Louisiana; and Mississippi Band of Choctaw Indians, Mississippi.

At an unknown date, human remains representing a minimum of one individual were removed from an unknown location. They were acquired by Dr. Joseph Jones of Louisiana at an unknown date. In 1906, the widow of Dr. Jones sold his collection to the Museum of the American Indian, Heye Foundation. In 1956, the Museum of the American Indian transferred the human remains to Dr. Theodore Kazamiroff, New York University College of Dentistry. No known individual was identified. No associated funerary objects are present.

Museum of the American Indian records indicate that the human remains are from an unknown location, but possibly either from Louisiana or Mississippi, and are the human remains of a Choctaw individual. The cranial morphology of the human remains confirms that they belong to an individual of Native American ancestry. No information from the museum records, osteological assessment, or consultation conflicts with the identification of the human remains as Choctaw. Tribal representatives of the Choctaw Nation of Oklahoma; Jena Band of Choctaw Indians, Louisiana; and Mississippi Band of Choctaw Indians, Mississippi, support the identification of the human remains as Choctaw, and identify both Louisiana and Mississippi as the ancestral homelands of the Choctaw.

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 Choctaw Nation of Oklahoma; Jena Band of Choctaw Indians, Louisiana; and Mississippi Band of Choctaw Indians, Mississippi.

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 8, 2009. Repatriation of the human remains to the Choctaw Nation of Oklahoma; Jena Band of Choctaw Indians, Louisiana; and Mississippi Band of Choctaw Indians, Mississippi may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry is responsible for notifying the Choctaw Nation of Oklahoma; Jena Band of Choctaw Indians, Louisiana; and Mississippi Band of Choctaw Indians, Mississippi that this notice has been published.

Dated: April 13, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10546 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: San Francisco State University, San Francisco, 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 San Francisco State University, San Francisco, CA. The human remains were removed from an unknown site in Siskiyou County, CA.

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 San Francisco State University professional staff in consultation with representatives of the Klamath Tribes, Oregon (formerly the Klamath Indian Tribe of Oregon).

On an unknown date, human remains representing a minimum of one individual were removed from an unknown site (Ca-Sis-UNK) in Siskiyou County, CA. No known individual was identified. No associated funerary objects are present.

The human remains were inside a box marked ''Siskiyou Co.; No Site No.; Ft. Jones; Box 1 of 1,'' indicating removal from a Native American archeological site near the town of Fort Jones which is located in Siskiyou County, CA. In addition, the human remains were determined to be Native American based on the morphology of the zygomatics and a shoveled incisor. Based on ethnography and consultation with Klamath Tribes, Oregon it has been determined that Siskiyou County is within the historically documented territory of the Klamath and Modoc tribes. Descendants of the Klamath and Modoc are members of the Klamath Tribes, Oregon and Modoc Tribe of Oklahoma. The Klamath Tribes, Oregon have taken the lead on repatriation of Native American human remains from the area described above that are culturally affiliated with the Klamath and Modoc, and have claimed the human remains from site Ca-Sis-UNK.

Officials of San Francisco State University 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 San Francisco State University 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 Klamath Tribes, Oregon and Modoc Tribe of Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Jeff Fentress, NAGPRA Coordinator, Department of Anthropology, San Francisco State University, 1600 Holloway Ave., San Francisco, CA 95132, telephone (415) 338–3075, before June 8, 2009. Repatriation of the human remains to the Klamath Tribes, Oregon may proceed after that date if no additional claimants come forward.

San Francisco State University is responsible for notifying the Klamath Tribes, Oregon, and the Shasta Nation, a non-Federally recognized Indian group, that this notice has been published.

Dated: April 3, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10540 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Land Management, Spokane District Office, Spokane, WA and Museum of Anthropology at Washington State University, Pullman, WA

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 and associated funerary objects in the control of the U.S. Department of the Interior, Bureau of Land Management, Spokane District Office, Spokane, WA, and in the physical custody of the Museum of Anthropology at Washington State University, Pullman, WA. The human remains and associated funerary objects were removed from a site along the Rocky Reach Reservoir, Chelan County, 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 and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by professional staff at the Bureau of Land Management, Spokane District Office and the Museum of Anthropology at Washington State University in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington.

In 1982, human remains representing a minimum of three individuals were removed from site 45CH254 in Chelan County, WA, by Randall Schalk and Robert Mierendorf during a survey of the Rocky Reach Dam Reservoir. The human remains have been in the possession of the Museum of Anthropology at Washington State University since that time. No known individuals were identified. The human remains were found mixed together in an eroding embankment. At the time of excavation, the remains of only one adult individual were identified. Museum documentation indicates that this individual was turned over to the Confederated Tribes of the Colville Reservation on May 19, 1982. In 2007, an inventory of the collections identified the remains of an infant and child, as well as elements from an adult, but it is uncertain whether they belong to the individual turned over to the Confederated Tribes of the Colville Reservation in 1982. The 109 associated funerary objects are 5 bifaces, 4 lots of charcoal, 8 lots of fire modified rock, 34 lots of faunal remains, 16 lots of flakes, 1 tip of a chipped stone tool, 15 retouched flakes, 1 lot of seeds, 4 lots of natural rock, 1 hopper mortar base, 1 mano, 10 projectile points, 2 scrapers, 1 lot of red ochre, 5 lots of shell fish remains, and 1 incised bone object.

The determination of the cultural affiliation of the human remains is based upon geographical, archeological, oral tradition, and historic evidence. Charcoal from site 45CH254 was radiocarbon dated to about 1,200 years ago. The human remains and artifacts indicate that they are from the Native people who utilized the Columbia River during that time period. Direct

descendant communities from the Native people that jointly used the Columbia River 1,200 years ago are members of the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington.

Officials of the Bureau of Land Management, Spokane District Office and the Museum of Anthropology at Washington State University have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of a minimum of three individuals of Native American ancestry. Officials of the Bureau of Land Management, Spokane District Office and the Museum of Anthropology at Washington State University also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 109 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Land Management, Spokane District Office 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 associated funerary objects and the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Richard Bailey, District Archaeologist, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, WA 99212–1275, telephone (509) 536–1217, before June 8, 2009. Repatriation of the human remains and associated funerary objects to the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington may proceed after that date if no additional claimants come forward.

The Bureau of Land Management, Spokane District Office is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington and Confederated Tribes and Bands of the Yakama Nation, Washington that this notice has been published.

Dated: April 3, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10538 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Warren Anatomical Museum, Harvard University, Boston, MA

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 and control of Warren Anatomical Museum, Harvard University, Boston, MA. The human remains were removed from the Island of Hawaii, HI.

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 Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum professional staff in consultation with representatives of the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs.

At an unknown date, human remains representing a minimum of six individuals were removed from the Island of Hawaii, HI, by J.W. Whitney. The human remains were purchased by the Harvard Dental School Faculty for the Harvard Dental School Museum in 1893. Between 1936 and 1968, the human remains were transferred to the Warren Anatomical Museum. No known individuals were identified. No associated funerary objects are present.

Osteological characteristics indicate that the human remains are Native American. Museum documentation states that these individuals were recovered from ''lava caves'' on the Island of Hawaii. Anthropological and historic information indicates that cave interments are consistent with traditional Native Hawaiian mortuary practices. In addition, archeological and historic documentation combined with oral traditions support that the human remains are from an area considered to be part of the aboriginal homelands of ancestral Native Hawaiians. Present-day groups that represent Native Hawaiians for the Island of Hawaii are the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, and the Office of Hawaiian Affairs.

Officials of the Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of six individuals of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum 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 Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, and the Office of Hawaiian Affairs.

Representatives of any other Indian tribe or Native Hawaiian Organization that believes itself to be culturally affiliated with the human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Ave., Cambridge, MA 02138, telephone (617) 496–3702, before June 8, 2009. Repatriation of the human remains to the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, and the Office of Hawaiian Affairs may proceed after that date if no additional claimants come forward.

The Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum are responsible for notifying the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs that this notice has been published.

Dated: April 28, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10594 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Warren Anatomical Museum, Harvard University, Boston, MA

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 and control of Warren Anatomical Museum, Harvard University, Boston, MA. The human remains were removed from an unknown locality in the State of Hawaii.

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 Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum professional staff in consultation with representatives of the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs.

At an unknown date, human remains representing a minimum of one individual were removed from an unknown location in the State of Hawaii by D.H. Steadman. The human remains were presented to the Anatomical Museum of the Boston Society for Medical Improvement on an unknown date before 1847. The Anatomical Museum of the Boston Society for Medical Improvement transferred its collection to the Warren Anatomical Museum in 1871. No known individual was identified. No associated funerary objects are present.

Osteological characteristics indicate that the human remains are Native American. Museum documentation state that the human remains were recovered from the ''Sandwich Islands.'' ''Sandwich Islands'' is an antiquated term used to describe the islands of Hawaii. Archeological and historic documentation combined with oral traditions support that the human remains are from an area considered to be part of the aboriginal homelands of ancestral Native Hawaiians. Present-day groups that represent Native Hawaiians for the State of Hawaii are Hui Malama I Na Kupuna O Hawai'i Nei and the Office of Hawaiian Affairs.

Officials of the Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum 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 Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum 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 Hui Malama I Na Kupuna O Hawai'i Nei and the Office of Hawaiian Affairs.

Representatives of any other Indian tribe or Native Hawaiian Organization that believes itself to be culturally affiliated with the human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Ave., Cambridge, MA 02138, telephone (617) 496–3702, before June 8, 2009. Repatriation of the human remains to Hui Malama I Na Kupuna O Hawai'i Nei and the Office of Hawaiian Affairs may proceed after that date if no additional claimants come forward.

The Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum are responsible for notifying the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs that this notice has been published.

Dated: April 28, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–10597 Filed 5–6–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Notice of Intent To Contract for Hydroelectric Power Development at the Carter Lake Dam Outlet, a Feature of the Colorado-Big Thompson Project (C–BTP), Colorado

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of intent to accept proposals, select one lessee, and contract for hydroelectric power development at Carter Lake Dam Outlet.

SUMMARY: Current Federal policy encourages non-Federal development of electrical power resource potential on Federal water resource projects. The Department of the Interior, acting through the Bureau of Reclamation (Reclamation) will consider proposals for non-Federal development of hydroelectric power at Carter Lake Dam Outlet of the C–BTP, Colorado. Reclamation is considering such hydroelectric power development under a lease of power privilege. No Federal funds will be available for such hydroelectric power development. The Western Area Power Administration (Western) would have the first opportunity to purchase and/or market the power that would be generated by such development under a lease of power privilege. The C–BTP is a Reclamation project. This Notice presents background information, proposal content guidelines, information concerning selection of one or more non-Federal entities to develop hydroelectric power at Carter Lake Dam Outlet, and power purchasing and/or marketing considerations. Interested entities are invited to submit a proposal on this project.

DATES: A written proposal and seven copies must be submitted on or before 12 p.m. (MST), on September 18, 2009. A proposal will be considered timely only if it is received in the office of the Lease of Power Privilege Coordinator by or before 12 p.m. (MST) on the designated date. Interested entities are cautioned that delayed delivery to this office due to failures or misunderstandings of the entity and/or of mail, overnight, or courier services will not excuse lateness and, accordingly, are advised to provide sufficient time for delivery. Late proposals will not be considered.

ADDRESSES: Written proposals and seven copies should be sent to Mr. George Gliko, Lease of Power Privilege Coordinator (GP–2200), Bureau of Reclamation, Great Plains Regional Office (GP–2200), P.O. Box 36900, Billings, MT 59107–6900.

Information related to Western's purchasing and/or marketing the power may be obtained at Western Area Power Administration, Rocky Mountain Region, Attn: Dave Neumayer, Power Marketing Manager, 5555 East Crossroads Blvd., Loveland, Colorado 80538, Telephone: (970) 461–7322.

Information related to the operation and maintenance of Carter Lake Dam and Reservoir and the St. Vrain Canal may be obtained at Northern Colorado Water Conservancy District, 220 Water Avenue, Berthoud, Colorado 80513, Telephone: (970) 532–7700.

FOR FURTHER INFORMATION CONTACT: Mr. George Gliko at (406) 247–7651.

Reclamation will be available to meet with interested entities only upon written request to the Lease of Power Privilege Coordinator at the above address. Reclamation reserves the right to schedule a single meeting and/or visit to address at once the questions of all entities that have submitted questions or requested site visits.

SUPPLEMENTARY INFORMATION:

The C–BTP, located in central Colorado, was authorized for construction, including hydroelectric power, by the Department of the Interior

Appropriations Act, 1938 (1938 Act), Public Law 75–249, 50 Stat. 564 (August 9, 1937). Specifically, the 1938 Act appropriates funds for the Project's ''construction in accordance with the plan described in Senate Document No. 80, Seventy-fifth Congress, First Session * * *'' 50 Stat. 595. As part of the C–BTP, the United States constructed Carter Lake Dam and the St. Vrain Supply Canal, which carries water south from the Carter Lake Dam Outlet to the vicinity of Lyons, Colorado. The Northern Colorado Water Conservancy District (District), under its contracts with the United States, has certain operation, maintenance, replacement, and repayment responsibilities and obligations concerning the C–BTP, which includes such responsibility for Carter Lake Dam and Reservoir and the recently transferred St. Vrain Supply Canal.

Reclamation is considering hydroelectric power development at Carter Lake Dam Outlet through a lease of power privilege. A lease of power privilege is a congressionally authorized alternative to Federal hydroelectric power development. A lease of power privilege grants to a non-Federal entity the right to utilize, consistent with C–BTP purposes, water power head or storage at and/or operationally in conjunction with the C–BTP, for non-Federal electric power generation and sale by the entity. Leases of power privilege have terms not to exceed 40 years. The general authority for lease of power privilege under Reclamation law includes, among others, the Town Sites and Power Development Act of 1906 (43 U.S.C. 522) and the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) (1939 Act). Congress authorized hydropower development for the C–BTP in Public Law 95–249. Reclamation will be the lead Federal agency for ensuring compliance with the National Environmental Policy Act (NEPA) of any lease of power privilege considered in response to this Notice. Leases of power privilege may be issued only when Reclamation, upon completion of the NEPA process, determines that the affected hydroelectric power sites are environmentally acceptable. Any lease of power privilege at Carter Lake Dam Outlet must accommodate existing contractual commitments related to operation and maintenance of such existing facilities.

Western would have the first opportunity to purchase and/or market the power that would be generated under any lease of power privilege. Under this process, Western would either purchase and market the power as Loveland Area Power (LAP) power or market the power independently by first offering it to preference entities and secondly to non-preference entities.

All costs incurred by the United States related to development and operation and maintenance under a lease of power privilege, including but not limited to NEPA compliance, development of the lease of power privilege, design reviews, construction oversight, and any other associated documents, would be the expense of the lessee. In addition, the lessee would be required to make annual lease payments to the United States for the use of a Federal facility. This payment includes a demand, energy and administrative component. The total of the three (3) components for Fiscal Year 2008 would have resulted in an estimated lease payment between five (5) to seven (7) mils per kWh depending on the lessee's powerplant capacity and gross generation. The three lease payment components will be recalculated on an annual basis. Additional information regarding the annual lease payment will be made available upon formal request through the Lease of Power Privilege Coordinator.

Proposal Content Guidelines: Interested parties should submit one or more proposals explaining in as precise detail as is practicable how the hydropower potential at each site would be developed. Factors which proposals should consider and address include, but are not limited to, the following:

A. Provide all information relevant to the qualifications of the proposing entity to plan and implement such a project, including, but not limited to, information about preference status, type of organization, length of time in business, experience in funding, design and construction of similar projects, industry rating(s) that indicate financial soundness and/or technical and managerial capability, experience of key management personnel, history of any reorganizations or mergers with other companies, safety record, and any other information that demonstrates the interested entity's organizational, technical and financial ability to perform all aspects of the work. Include a discussion of past experience in operating and maintaining similar facilities and provide references as appropriate. The term ''preference entity,'' as applied to a lease of power privilege, means an entity qualifying for preference under Section 9c of the 1939 Act, as a municipality, public corporation or agency, or cooperative or other nonprofit organization financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936, as amended.

B. Provide geographical locations and describe principal structures and other important features of the proposed development including roads and transmission lines. Estimate and describe installed capacity and the capacity of the power facilities under dry, average, and wet hydrological conditions. Also describe seasonal or annual generation patterns. Include estimates of the amount of electrical energy that would be produced from each facility for each month of average, dry, and wet water years. If capacity and energy can be delivered to another location, either by the proposing entity or by potential wheeling agents, specify where capacity and energy can be delivered. Include concepts for power sales and contractual arrangements, involved parties and the proposed approach to wheeling if required.

C. Indicate title arrangements and the ability to acquire title to or the right to occupy and use lands necessary for the proposed development, including such additional lands as may be required during construction.

D. Identify water rights applicable to the operation of the proposed development, the holder of such rights, and how these rights would be acquired or perfected.

E. Discuss any studies necessary to adequately define impacts on the C–BTP and the environment required by the development. Describe any significant environmental issues associated with the development and the proposing entity's approach for gathering relevant data and resolving such issues to protect and enhance the quality of the environment. Explain any proposed use of the hydropower development for conservation and utilization of the available water resources in the public interest.

F. Describe anticipated contractual arrangements with the entity or entities having operation and maintenance responsibility for the C–BTP feature(s) that are proposed for utilization in the hydropower development under consideration. Define how the hydropower development would operate in harmony with the C–BTP, not impact C–BTP operations, existing applicable contracts related to operation and maintenance of C–BTP feature(s) that are proposed for utilization in the hydropower development under consideration, and any other applicable water-related contracts.

G. Identify the organizational structure planned for the long-term operation and maintenance of any proposed hydropower development.

H. Provide a management plan to accomplish such activities as planning,

NEPA compliance, lease of power privilege development, design, construction, facility testing, and start of hydropower production. Prepare schedules of these activities as applicable. Describe what studies are necessary to accomplish the hydroelectric power development and how the studies would be implemented.

I. Estimate development cost. This cost should include all investment costs such as the cost of studies to determine feasibility, NEPA compliance, design, construction, associated bonding and financing as well as the amortized annual cost of the investment; also, the annual operation, maintenance, and replacement expense for the hydropower development; lease payments to the United States; and expenses that may be associated with the C–BTP. If there are additional transmission or wheeling expenses associated with the development of the hydropower development, these should be included. Identify proposed methods of financing and hydropower development. An economic analysis should be presented that compares the present worth of all benefits and costs of the hydropower development.

Selection of Lessee: Reclamation will evaluate proposals received in response to this published notice.

Reclamation will give more favorable consideration to proposals that (1) are well-adapted to developing, conserving, and utilizing the water and natural resources, (2) clearly demonstrate that the offeror is qualified to develop the hydropower facility and provide for long-term operation and maintenance, and (3) develop the hydropower potential economically. A proposal will be deemed unacceptable if it is inconsistent with C–BTP purposes, as determined by Reclamation. Reclamation will give preference to those entities that qualify as preference entities (as defined under PROPOSAL CONTENT GUIDELINES, item A.) provided that their proposal is at least as well-adapted to developing, conserving, and utilizing the water and natural resources as other submitted proposals and that the preference entity is well qualified. Preference entities would be allowed 90 days to improve their proposals, if necessary, to be made at least equal to a proposal that may have been submitted by a non-preference entity.

Power Purchasing and/or Marketing Considerations: Western would have the first opportunity to purchase and/or market the power that would be generated by the project under a lease of power privilege. Western will consult with Reclamation on such power purchasing and/or marketing considerations.

In the event Western elects to not purchase and/or market the power generated by the hydropower development or such a decision cannot be made prior to execution of the lease of power privilege, the lessee would be responsible for marketing the power generated by the project with priority given to preference entities as heretofore defined in PROPOSAL CONTENT GUIDELINES, item A.

Notice and Time Period to Enter Into Lease of Power Privilege: Reclamation will notify, in writing, all entities submitting proposals of Reclamation's decision regarding selection of the potential lessee. The selected potential lessee will have five years from the date of such notification to enter into a lease of power privilege for the site or sites identified in the proposal. Such leases of power privilege will state whether and how Western will be involved in purchasing and/or marketing the power. Any excessive delay resulting from compliance with the provisions of Federal environment laws or administrative review by a Federal agency, pertaining to the project, may extend the five year time period for a period equal to that of the delay. In the event of litigation related to the proposed project, the five year time period will be extended for a period equal to that of the delay, provided such litigation was initiated by parties other than the selected potential lessee or its employees, officers, agents, assigns, shareholders, customers or persons or groups served by or in privity with the potential lessee.

Dated: April 15, 2009.

Michael J. Ryan,

Regional Director

[FR Doc. E9–10599 Filed 5–6–09; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on April 28, 2009, a proposed consent decree in *United States, et al.,* v. *Occidental Chemical Corp., Pioneer Americas, LLC, Mariana Properties, Inc., Detrex Corp., Sound Refining, Inc. and SRI Acquisition Corp.,* No. 09–cv–5246, was lodged with the United States District Court for the Western District of Washington.

In this action the United States, State of Washington, Puyallup Tribe of Indians and Muckleshoot Indian Tribe sought natural resource damages for releases of hazardous substances into Commencement Bay, Washington. Under the consent decree, defendants will undertake a habitat restoration project in the Hylebos Waterway of Commencement Bay and reimburse $1,550,000 in natural resource damage assessment costs.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In either case, the comments should refer to *United States, et al.* v. *Occidental Chemical Corp., et al.,* No. 09–cv–5246, D.J. Ref. No. 90–11–2–1049/13.

During the comment period, the Consent Decree may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $24.75 (25 cents per page reproduction cost) payable to the United States 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 Section Chief Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–10548 Filed 5–6–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on April 17, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301

et seq. (''the Act''), American Society of Mechanical Engineers (''ASME'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, since January 12, 2009, ASME has published two new standards and initiated eight new standards activities within the general nature and scope of ASME's standards development activities, as specified in its original notification. More detail regarding these changes can be found at *http://www.asme.org.*

On September 15, 2004, ASME filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 13, 2004 (69 FR 60895).

The last notification was filed with the Department on January 14, 2009. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 9, 2009 (74 FR 6420).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–10357 Filed 5–6–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Clean Diesel V

Notice is hereby given that, on March 31, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (the Act), Southwest Research Institute—Cooperative Research Group on Clean Diesel V (''Clean Diesel V'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Volkswagen Group of America, Inc., Auburn Hills, NI has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Clean Diesel V intends to file additional written notifications disclosing all changes in membership.

On January 10, 2008, Clean Diesel V filed its original notification pursuant to Section 6(a) of the Act. The Department—of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 25, 2008 (73 FR 10064).

The last notification was filed with the Department on February 24, 2009. A notice was published in the **Federal Register** on April 8, 2009 (74 FR 16011)

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–10358 Filed 5–6–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

United States Parole Commission

Public Announcement Pursuant to the Government in the Sunshine Act (Pub. L. 94–409) [5 U.S.C. 552b]

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 10 a.m., Thursday, May 14, 2009.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of Minutes of January 2009 Quarterly Business Meeting.

2. Reports from the Chairman, Commissioners, Chief of Staff, and Section Administrators.

3. Statements from organizations on a proposal to apply 1987 guidelines of the District of Columbia Board of Parole to some D.C. offenders.

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission, (301) 492–5990.

Dated: May 4, 2009.

Rockne J. Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. E9–10722 Filed 5–5–09; 4:15 pm]

BILLING CODE 4410–31–P

DEPARTMENT OF JUSTICE

United States Parole Commission

Public Announcement Pursuant to the Government in the Sunshine Act (Pub. L. 94–409) [5 U.S.C. 552b]

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

DATE AND TIME: 11:30 a.m., Thursday, May 14, 2009.

PLACE: U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815.

STATUS: Closed.

MATTERS CONSIDERED: The following matter will be considered during the closed meeting:

Petitions for reconsideration involving two original jurisdiction cases pursuant to 28 CFR 2.27.

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission, (301) 492–5990.

Date: May 4, 2009.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. E9–10725 Filed 5–5–09; 4:15 pm]

BILLING CODE 4410–31–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

May 1, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting 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—Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC

20503, *Telephone:* 202–395–7316/*Fax:* 202–395–6974 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the OMB Control Number (*see* below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: ERISA Procedure 76–1; Advisory Opinion Procedure.

OMB Control Number: 1210–0066.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 63.

Total Estimated Annual Burden Hours: 652.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $1,425,229.

Description: Information collection provisions of Employee Retirement Income Security Act of 1974 (ERISA) Procedure 76–1 are used by persons supplying information needed for the Department to respond to their request for an interpretation as to the applicability of ERISA to a specific set of facts and circumstances. The Department's responses to such requests are called ''information letters'' and ''advisory opinions.''

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Disclosures for Participant Directed Individual Account Plans Under ERISA Section 404(c).

OMB Control Number: 1210–0090.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 296,000.

Total Estimated Annual Burden Hours: 1,316,000.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $63,070,000.

Description: Section 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1104(c)) provides that, if an individual account pension plan permits a participant or beneficiary to exercise control over assets in his or her account and the participant or beneficiary in fact exercises such control (as determined under regulations of the Department of Labor), the participant or beneficiary shall not be deemed to be a fiduciary by such exercise of control and no person otherwise a fiduciary to the plan shall be liable for any loss or breach that results solely from this exercise of control. For additional information, see related notice published at Vol. 74 FR 4980 on January 28, 2009.

The Department of Labor's regulation under section 404(c), codified at 29 CFR 2550.404c–1, describes the circumstances in which a participant or beneficiary in an individual account plan is considered to have exercised control over the assets in his or her individual account so as to relieve a fiduciary to the plan of liability relating to the exercise of control. The regulation specifies the manner in which an individual account pension plan must operate in allowing participants or beneficiaries to allocate individual account assets among available investment alternatives, such that section 404(c) will limit the plan fiduciary's liability for the investment decision. The regulation provides, inter alia, that participants and beneficiaries must have adequate information on which to base investment decisions. The regulation specifies the information that a plan must make available before a participant first makes investment decisions; when that information changes, for example when the available investment options under the plan change; and also upon the participant's and beneficiary's request. These information collection provisions are necessary to ensure that participants and beneficiaries are adequately informed about investment alternatives available under the plan, their rights, and the consequences of their investment decisions. Such information is important in assisting participants and beneficiaries in understanding their investment risks and achieving their retirement savings goals. For additional information, see related notice published at Vol. 74 FR 4981 on January 28, 2009.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Settlement Agreements between a Plan and Party in Interest.

OMB Control Number: 1210–0091.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 4.

Total Estimated Annual Burden Hours: 28.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $315.

Description: Section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA) and section 4975(c)(2) of the Internal Revenue Code of 1986 (the Code) give the Secretary of Labor the authority to grant an exemption to a class or order of fiduciaries, disqualified persons, or transactions from all or part of the restrictions imposed by sections 406 and 407(a) of ERISA and from the taxes imposed by sections 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code.

This information collection request (ICR) relates to two prohibited transaction class exemptions (PTEs) that the Department of Labor (the Department) has granted, both of which involve settlement agreements. These two exemptions are described below:

PTE 94–71. Granted on September 30, 1994, PTE 94–71 exempts from certain restrictions of ERISA and certain taxes imposed by the Code, a transaction or activity that is authorized, prior to the execution of the transaction or activity, by a settlement agreement resulting from an investigation of an employee benefit plan conducted by the Department. The following information collections are among the conditions for the exemption:

- *Written Notice.* A party engaging in a settlement agreement arising out of a Department investigation must provide written notice to the affected participants and beneficiaries of the plan. The notice must contain an objective description of the transaction or activity, the approximate date on which the transaction will occur, the address of the regional or district office of the Department that negotiated the settlement agreement, and a statement informing participants and beneficiaries

of their right to forward their comments to such office.

• *Pre-Approval.* A copy of the notice and a description of the method by which it will be distributed must be approved in advance by the regional or district office of the Department that negotiated the settlement.

PTE 03–39. Granted on December 31, 2005, PTE 03–39 exempts from certain restrictions of ERISA and certain taxes imposed by the Code, transactions arising out of the settlement of litigation that involve the release of claims against parties in interest in exchange for payment by or on behalf of the party in interest, provided that certain conditions are met, including the following information collections:

• *Written Agreement.* The terms of the settlement must be specifically described in a written agreement or consent decree. Because it is usual and customary business practice to reduce the terms of a settlement agreement to writing, there is no additional burden associated with this requirement.

• *Acknowledgement by Fiduciary.* The fiduciary acting on behalf of the plan must acknowledge in writing that s/he is a fiduciary with respect to the settlement of the litigation. It is anticipated that this acknowledgement will be included in the written investment management or trustee agreement outlining the terms and conditions of the fiduciary's retention as a plan service provider. Therefore, no measurable burden is attached to this requirement.

For additional information, see related notice published at Vol. 74 FR 4977 on January 28, 2009.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Voluntary Fiduciary Correction Program.

OMB Control Number: 1210–0118.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 1,525.

Total Estimated Annual Burden Hours: 6,863.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $273,403.

Description: The Voluntary Fiduciary Correction Program provides a method for voluntary correction of specified types of transactions that violate (or are suspected of violating) the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 and for securing the Department's assurance that it will take no further action with respect to the corrected transaction. For additional information, see related notice published at Vol. 74 FR 4979 on January 28, 2009.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Notice of Blackout Period Under ERISA.

OMB Control Number: 1210–0122.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 45,218.

Total Estimated Annual Burden Hours: 183,342.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $1,628,760.

Description: Public Law 107–204 amended section 101 of the Employee Retirement Income Security Act of 1974 to require plan administrators to furnish affected participants and beneficiaries of individual account pension plans with advance written notice of a ''blackout period'' during which their right to direct or diversify investments or obtain a loan or distributions, may be temporarily suspended. For additional information, see related notice published at Vol. 74 FR 4978 on January 28, 2009.

Agency: Employee Benefits Security Administration.

Type of Review: Revision of currently approved collection.

Title of Collection: Annual Funding Notice for Defined Benefit Pension Plans.

OMB Control Number: 1210–0126.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 30,458.

Total Estimated Annual Burden Hours: 1,093,173.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $21,630,572.

Description: Public Law 108–218 amended section 101(f) of the Employee Retirement Income Security Act of 1974 (ERISA) to require plan administrators of a defined benefit plan which is a multiemployer plan to each plan year furnish a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.

In August 2006, section 501(a) of the Pension Protection Act of 2006 (PPA) expanded the annual notice requirement to single-employer defined benefit plans. Section 501(c) of the PPA directs the Department to publish a model of the notice required by section 101(f) of ERISA, as amended, not later than one year after the date of enactment of the PPA.

Recently, concerns have been expressed about the imminent compliance date of the new annual funding notice requirements, the absence of regulatory guidance from the Department, and the cost and burdens attendant to annual funding notice compliance efforts prior to the adoption of annual funding notice regulations and the issuance of model annual funding notices by the Department. In recognition of the foregoing, on February 10, 2009, the Department issued a Field Assistance Bulletin 2009–1 (the FAB) concerning the disclosure requirements mandated by the PPA, which provides model notices. The FAB addresses the need for interim guidance pending the adoption of regulations or other guidance under section 101(f) of ERISA by providing that pending further guidance, the Department will, as a matter of enforcement policy, treat a plan administrator as satisfying the requirements of section 101(f), if the administrator complies with the guidance contained in the FAB (and appropriately uses a completed model notice) and has acted in accordance with a good faith, reasonable interpretation of those requirements with respect to matters not specifically addressed in the FAB.

The Department is revising its information collection under OMB Control Number 1210–0126 to reflect the issuance of the FAB at this time. For additional information, see related notices published at Vol. 73 FR 70676 on November 21, 2008 and 74 FR 7489 on February 17, 2009.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–10640 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–29–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 20 through April 24, 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–65,228; Carthuplas, Inc., Gaffney, SC: January 7, 2008

TA–W–64,526A; North American Lighting, Salem, IL Plant, Westaff, Manpower, & Select, Salem, IL: November 21, 2007

TA–W–64,526B; North American Lighting, Flora, IL Plant, Westaff, Flora, IL: November 21, 2007

TA–W–64,526C; North American Lighting, Corporate Headquarters, Paris, IL: November 21, 2007

TA–W–64,526; North American Lighting, Paris, IL Plant, Manpower, Select & Trillium, Paris, IL: November 21, 2007

TA–W–64,702; DESA, LLC, Manpower, Inc., Bowling Green, KY: December 12, 2007

TA–W–65,527; Alcoa Wenatchee Works, Global Primary Products US Division, Malaga, WA: March 6, 2008

TA–W–65,607; The Mazer Corporation, Printing Services, At Work Temporary Agency, Johnson City, TN: March 13, 2008

TA–W–65,564; General Motors Corporation, Global Purchasing & Supply Chain Div., Warren, MI: February 12, 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–65,596; Nortech Systems, Bemidji, MN: March 13, 2008

TA–W–65,637; Continental Sprayers International, Continental AFA, St. Peters, MO: March 18, 2008

TA–W–65,702; GM Nameplate, Inc., Washington Division, Seattle, WA: March 26, 2008

TA–W–65,576; SGL Carbon, LLC, A Subsidiary of SGL Group—The Carbon Company, St. Marys, PA: March 11, 2008

TA–W–65,608; WestPoint Home, Inc, Bed Products Division, Abbeville, AL: March 8, 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–65,257; The Crown Group, Detroit, MI: January 13, 2008

TA–W–65,600; Isonics Vancouver, Inc., Isonics Corp., Vancouver, WA: March 11, 2008

TA–W–65,656; Commercial Vehicle Group, Cab Systems Div., Vancouver, WA: March 28, 2009

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–65,302; Miller Products Corporation, Grand Rapids, MI: February 16, 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–64,665A; Alcoa Howmet Castings, Plant #5, Whitehall, MI.

TA–W–64,665; Alcoa Howmet Castings, Thermatch Coatings & Titanium, Plant #4, Whitehall, MI.

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–64,561; Nilfisk Advance, Plymouth Div., Plymouth, MN.

TA–W–64,909; American National Rubber, Ceredo, WV.

TA–W–65,183; National Bearings company, Lancaster, PA.

TA–W–65,191; Rockwell Automation, Ladysmith, WI.

TA–W–65,360; MVP RV, Inc., Moreno Valley, CA.

TA–W–65,383; Plastic Engineering, Sheboygan, WI.

TA–W–65,594; Brunswick Bowling and Billiard Corporation, Muskegon, MI.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–65,219; Thomasville Furniture Industries, Thomasville Furniture Outlet Store, Hudson, NC.

TA–W–65,529; Active USA/ATC Leasing, Pleasant Prairie, WI.

TA–W–65,614; Auto Truck Transportation, Cleveland, NC.

TA–W–65,624; SpringBoard Technology Corporation, Springfield MA.

TA–W–65,693; Bergstrom Saturn of Eau Claire, Bergstrom Corp, Eau Claire, WI.

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 20 through April 24, 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.

Date: April 30, 2009.

Linda G. Poole

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10563 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,652]

Aida America Corporation, Dayton, OH; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 23, 2009 in response to a petition filed by a company official on behalf of workers of Aida America Corporation, Dayton, Ohio.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 3rd day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10590 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,445]

ASML, Boise, ID; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 2, 2009 in response to a petition filed on behalf of workers of ASML, Boise, Idaho. Workers perform on-site services in support of semiconductor manufacturers.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10580 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,686]

Cessna Aircraft, Formerly Columbia Aircraft; Bend, OR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on December 16, 2008, in response to a petition filed by the State of Oregon on behalf of workers at Cessna Aircraft, formerly Columbia Aircraft, Bend, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of April 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10564 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,154]

CME, LLC; Mt. Pleasant, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 6, 2009 in response to a worker petition filed on behalf of workers of CME, LLC, Mt. Pleasant, Michigan.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 9th day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10569 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,466]

Conoco-Phillips, Ponca City, OK; Notice of Termination of Investigation

In accordance with Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 4, 2009 in response to a petition filed by an Oklahoma State Workforce Office representative on behalf of workers of Conoco-Phillips, Ponca City, Oklahoma.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 8th day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10583 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,406]

Cummins Filtration, Findlay, OH; Notice of Termination of Investigation

In accordance with Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 26, 2009 in response to a petition filed by a representative of UNITE, Chicago Midwest Regional Joint Board Union, on behalf of workers of Cummins Filtration, Findlay, Ohio.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 7th day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10576 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,204]

Daimler Trucks North America/ Gastonia Components and Logistics Formerly Known as Freightliner LLC/ Gastonia Parts and Manufacturing Plant Gastonia, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 10, 2009 in response to a petition filed by three workers on behalf of workers at Daimler Trucks North America/Gastonia Components and Logistics, formerly known as Freightliner LLC/Gastonia Parts and Manufacturing Plant, located in Gastonia, North Carolina.

All of the petitioners are covered by an active certification (TA–W–61,095) which expires on April 13, 2009. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 7th day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10571 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,559]

Data Technology, D/B/A Gerber Innovations, Inc., a Gerber Scientific Company, Wilmington, MA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 11, 2009 in response to a petition filed by a company official on behalf of the workers at Data Technology d/b/a Gerber Innovations, Inc., a Gerber Scientific Company, Wilmington, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 25th day of March 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10587 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,408]

DHL Express; San Francisco, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 26, 2009 in response to a worker petition filed by a California State Workforce official on behalf of workers of DHL Express, San Francisco, California.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 8th day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10578 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,664]

Doranco, Inc.; Mansfield, MA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 23, 2009 in response to a worker petition filed by the Massachusetts Department of Labor and Workforce Development on behalf of workers at Doranco, Inc., Mansfield, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 7th day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10592 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,378]

Ethan Allen Operations, Inc.; Beecher Falls, VT; Notice of Termination of Investigation

In accordance with Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 25, 2009 in response to a petition filed by a company official on behalf of workers of Ethan Allen Operations, Inc., Beecher Falls, Vermont.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 2nd day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10562 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,388; TA–W–65,388A]

Findlay Industries, Inc., Findlay, OH; Findlay Industries, Inc., Springfield, OH; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 26, 2009, in response to petitions filed by UNITE HERE!, Toledo, Ohio, on behalf of workers at Findlay Industries, Inc., Findlay and Springfield, Ohio.

The petitioner has requested that his petitions be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of April 2009.

Elliott S. Kushner

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10575 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,460]

Flabeg Corporation; Brackenridge, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 3, 2009 in response to a petition filed by the United Steelworkers of America, Local 9445–13 on behalf of workers of Flabeg Corporation, Brackenridge, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 3rd day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10581 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,351]

Ford Motor Company, Dearborn Truck Plant, Dearborn, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 24, 2009 in response to a petition filed by a Michigan state agency representative on behalf of workers at Ford Motor Company, Dearborn Truck Plant, Dearborn, Michigan. The workers at the subject facility assemble Ford F–150 pickups.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 8th day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10573 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,317]

Greenkote IPC, St. Louis, MO; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 20, 2009 in response to a worker petition filed by the Service Employees' International Union, Local 1, on behalf of workers at Greenkote IPC, St. Louis, Missouri.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 8th day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10572 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,170]

Johnstown Specialty Castings, Inc., Johnstown, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 9, 2009 in response to a petition filed by the United Steelworkers of America, Local 2362–16, on behalf of workers of Johnstown Specialty Castings, Inc., Johnstown, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 6th day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10570 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,113]

Maine Woods Company, Portage Lake, ME; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 4, 2009 in response to a worker petition filed by a company official on behalf of workers of Maine Woods Company, Portage Lake, Maine.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 8th day of April 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10567 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,549]

Maverick Tube LLC, D/B/A TEXAS ARAI; Houston, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 11, 2009 in response to a petition filed by a company official on behalf of workers of Maverick Tube LLC, D/B/A Texas Arai, Houston, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 1st day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10585 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,563]

MEI LLC, Albany, OR; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 11, 2009 in response to a petition filed on behalf of workers of MEI LLC, Albany, Oregon.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 7th day of April 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10588 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,666]

Neocork Technologies; Conover, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 24, 2009 in response to a petition filed on behalf of workers of Neocork Technologies, Conover, North Carolina.

The petitioner has requested that the petition be withdrawn. Therefore, the investigation under this petition has been terminated.

Signed at Washington, DC, this 3rd day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10593 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,859]

New Castle E Coating Plus, LLC, New Castle, IN; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January

12, 2009 in response to a petition filed by a company official on behalf of workers of New Castle E Coating Plus, LLC, New Castle, Indiana.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10565 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,352]

Orhan North America, Inc.; Rochester Hills, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 24, 2009 in response to a worker petition filed by a company official on behalf of workers of Orhan North America, Inc., Rochester Hills, Michigan.

The intent of the petitioner was to cover workers of the firm in Paris, Tennessee. The petitioning group of workers is covered by an active certification (TA–W–65,363), which does not expire until April 2, 2011. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 6th day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10574 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,486]

Ortho Pharmaceutical, A Division Of Janssen Ortho, LLC, Manati, PR; Notice of Termination of Investigation

In accordance with Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 4, 2009 in response to a petition filed by a Puerto Rico Workforce Office representative on behalf of workers of Ortho Pharmaceutical, a Division of Janssen Ortho, LLC, Manati, Puerto Rico.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 8th day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10584 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,663]

Philips Oral Healthcare; Snoqualmie, WA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 23, 2009 in response to a petition filed by a company official on behalf of workers of Philips Oral Healthcare, Snoqualmie, Washington.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 6th day of April 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10591 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,465]

Pinehurst Manufacturing, Inc.; Albemarle, NC; Notice of Termination of Investigation

In accordance with Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 4, 2009 in response to a petition filed by a company official on behalf of workers of Pinehurst Manufacturing, Inc., Albemarle, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 3rd day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10582 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,032]

Prior Coated Metals, Inc., Allentown, PA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 29, 2009, in response to a petition filed by United Steel Workers Local 2599 on behalf of workers at Prior Coated Metals, Inc., Allentown, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 2nd day of April 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10367 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,153]

Rockwell Automation, Incorporated, Engineered to Order Division, Richland Center, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 6, 2009 in response to a petition filed on behalf of workers of Rockwell Automation, Incorporated, Engineered to Order Division, Richland Center, Wisconsin.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 7th day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10568 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,435]

Trim Masters, Inc., Nicholasville, KY; Notice of Termination of Investigation

In accordance with Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 27, 2009 in response to a petition filed by a company official on behalf of workers of Trim Masters, Inc., Nicholasville, Kentucky.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 3rd day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10579 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,641]

United Airlines, Inc.; United Services Maintenance Center; San Francisco, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on March 20, 2009, in response to a worker petition filed by the International Brotherhood of Teamsters, Local 986 on behalf of workers at United Airlines, Inc., United Services Maintenance Center, San Francisco, California.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10589 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–65,065]

Yazaki North America, Cantor, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on February 2, 2009 in response to a worker petition filed on behalf of workers of Yazaki North America, Cantor, Michigan.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 3rd day of April 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–10566 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–FN–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0048]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* ''Generic Customer Satisfaction Surveys and NRC Form 671, Request for Review of a Customer Satisfaction Survey Under Generic Clearance''.

3. *The form number if applicable:* NRC Form 671.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Voluntary reporting by the public and NRC licensees.

6. *An estimate of the number of responses:* 1,261.

7. *The estimated number of annual respondents:* 1,261.

8. *An estimate of the number of hours needed annually to complete the requirement or request: 226 hours.* (.179 hours per response).

9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* Not applicable.

10. *Abstract:* Voluntary customer satisfaction surveys will be used to contact users of NRC services and products to determine their needs, and how the Commission can improve its services and products to better meet those needs. In addition, focus groups will be contacted to discuss questions concerning those services and products. Results from the surveys will give insight into how NRC can make its services and products cost effective, efficient, and responsive to its customer needs. Each survey will be submitted to OMB for its review.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, 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 and questions should be directed to the OMB reviewer listed below by June 8, 2009. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Desk Officer, Office of Information and Regulatory Affairs (3150–0197), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine_J._Kymn@omb.eop.gov* or submitted by telephone at (202) 395–4638.

The NRC Clearance Officer is Gregory Trussell, 301–415–6445.

Dated at Rockville, Maryland, this 30th day of April 2009.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E9–10618 Filed 5–6–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 and 50–318; Docket No. 72–8; NRC–2009–0194]

Calvert Cliffs Nuclear Power Plant, Inc., Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2; Calvert Cliffs Independent Spent Fuel Storage Installation; Notice of Consideration of Approval of Application Regarding Proposed Restructuring and of Direct Transfer of Licenses Pursuant to 10 CFR 50.80 and 10 CFR 72.50, and of Approval of Conforming License Amendments Pursuant to 10 CFR 50.90 and 10 CFR 72.56 and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering the issuance of an Order under 10 CFR 50.80 and 10 CFR 72.50 approving the indirect transfer as well as the direct transfer of the Renewed Facility Operating Licenses, Nos. DPR–53 and DPR–69, for the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, respectively, and Material License No. SNM–2505 for the Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI), currently held by Calvert Cliffs Nuclear Power Plant, Inc. (CCNPPI) as owner and licensed operator. CCNPPI is owned by Constellation Energy Nuclear Group, LLC (CENG). CENG is a wholly-owned subsidiary of Constellation Energy Group, Inc. (CEG).

According to an application dated January 22, 2009, filed by CENG, on behalf of CCNPPI, and EDF Development, Inc. (EDF Development), as supplemented by letters dated February 26 and April 8, 2009, the applicants seek approval pursuant to 10 CFR 50.80 and 10 CFR 72.56 of the indirect transfer of control of the subject licenses held by CCNPPI to the extent such would result from certain proposed corporate restructuring actions in connection with a planned investment by EDF Development whereby it would acquire a 49.99% ownership interest in CENG. EDF Development is a U.S. corporation organized under the laws of the State of Delaware and a wholly owned subsidiary of E.D.F. International S.A., a public limited company organized under the laws of France, which is in turn a wholly owned subsidiary of Électricité de France S.A., a French limited company. Furthermore, the application seeks approval of the proposed direct transfer of licenses held by CCNPPI to a new legal entity, Calvert Cliffs Nuclear Power Plant, LLC, and approval of conforming license amendments.

Following the proposed transaction, CEG will hold a 50.01% ownership interest in CENG through two new intermediate parent companies which will be formed for non-operational purposes. In addition, an intermediate holding company will exist between CENG and CCNPP, LLC.

No physical changes to the facilities or operational changes are being proposed in the application. The proposed conforming license amendment would replace references to Calvert Cliffs Nuclear Power Plants, Inc. in the license with references to Calvert Cliffs Nuclear Power Plant, LLC, to reflect the proposed direct transfer of the licenses.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the direct transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed underlying transaction, *i.e.*, the proposed corporate restructuring, will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and Orders issued by the Commission pursuant thereto.

In connection with the direct license transfers, before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or to the license of an Independent Spent Fuel Storage Installation which does no more than conform the license to reflect the transfer action involves no significant hazards consideration and no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected by the Commission's action on the application may request a hearing and intervention through the NRC E-filing system. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C ''Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings,'' of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i)–(viii).

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by e-mail at *HEARING.DOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the

participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:30 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The electronic filing Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MHSD.Resource@nrc.gov.*

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submissions.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments are not subject to the E-filing rule and should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice. Comments may also be sent by e-mail to *HEARINGDOCKET@NRC.GOV.*

For further details with respect to this license transfer application, see the application dated January 22, 2009, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agency wide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/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 by e-mail to *pdr.resource@nrc.gov.*

Attorneys for applicants: Daniel F. Stenger, Hogan & Hartson LLP, 555 Thirteenth Street, NW., Washington, DC 20004, tel: 202.637.5691, e-mail: *DFStenger@hhlaw.com* (counsel for CENG); and John E. Matthews, Morgan, Lewis, & Bockius, 1111 Pennsylvania Ave., NW., Washington, DC 20004, tel. 202.739.5524, e-mail: *jmatthews@morganlewis.com* (counsel for EDF Development).

Dated at Rockville, Maryland, this 28th day of April 2009.

For the Nuclear Regulatory Commission.

Douglas V. Pickett,

Senior Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–10637 Filed 5–6–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–10716; NRC–2008–0662]

Notice of Environmental Assessment and Finding of No Significant Impact Related to the Issuance of a License Amendment to Byproduct Material License No. 24–16273–01, for the Sigma-Aldrich Company, 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: Mike McCann, Senior 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) 829–9856.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an amendment to amend NRC Byproduct Materials License No. 24–16273–01, which is held by The Sigma-Aldrich Company (licensee). The issuance of the amendment would approve the licensee's decommissioning plan (DP) (ML083010187), which describes decommissioning activities that will be performed at the licensee's Fort Mims Facility located at 11542 Fort Mims Drive, City of Maryland Heights, Missouri (the Facility).

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

On October 22, 2008, the licensee notified the NRC that it had permanently ceased operating activities at the Facility, and provided a decommissioning plan (DP) (ML083010187) for NRC approval to authorize decommissioning activities in accordance with the requirements of 10 CFR 30.36 (g). The NRC issued a Federal Register Notice (FRN), announcing Sigma-Aldrich Company's license amendment request, and providing opportunity to request a hearing. 73 FR 79520 (Dec. 29, 2008). No hearing requests were submitted.

On December 10, 2008, and March 11, 2009, after review of the licensee's DP, the NRC staff requested additional information (ML090150318 and ML090770368, respectively), which resulted in revisions to the DP, (ML090500166, ML083510270, and ML090850311, respectively). The licensee proposes to decommission the Fort Mims Facility to permit the release of the site for unrestricted use, as governed by the License Termination Rule (LTR), Subpart E of Title 10 of the Code of Federal Regulations (CFR) Part 20.1402 ''Radiological Criteria for Unrestricted Use.''

The NRC approved the licensee's Fort Mims Facility as an approved location of use on November 11, 1974. The NRC issued license no. 24–16273–01 to Pathfinder Laboratories authorizing the possession of carbon-14 and hydrogen-3 for synthesis of labeled compounds for commercial distribution at the Fort Mims Facility. On July 22, 1987, the NRC issued Amendment No. 08 to License 24–16273–01, changing the licensee name and ownership of the Fort Mims Facility from Pathfinder Laboratories to Sigma Chemical Company. NRC License Amendment 15, dated March 13, 2002, changed the name from Sigma Chemical Company to Sigma-Aldrich Company. The licensee is currently operating under Radioactive Materials License Amendment No.16, with an expiration date of March 31, 2012.

The Fort Mims Facility is approximately 3.3 miles east southeast and 16 miles west of the city center of the city of St. Louis, Missouri. The population of the cities of Maryland Heights and St. Louis are approximately 26,000 and 356,000, respectively. The Facility is bordered by Interstates 70 to the north, 270 to the west, 170 to the east, and 44 to the south. The current land use in the area is primarily industrial and urban components. Residential use of the Sigma-Aldrich site in the near future is considered unlikely due to local zoning restrictions. The facility was constructed in two phases beginning in the late 1960s. The Sigma-Aldrich Company expanded the original Pathfinder building in 1981 to its current configuration. The only effluent discharge points were via a facility exhaust stack, and a septic tank, which was buried under subsequent building additions. The use of the septic system stopped in July 1981 when the facility was connected to the Saint Louis Metropolitan Sewer district.

The licensee's decommissioning project will transition through four major phases. The first phase involves the remediation of the Fort Mims building, which will include removal of all office and laboratory materials and equipment, and ventilation and waste disposal systems. The second phase involves the demolition of the Fort Mims building down to the building slab, which won't occur until verification that the building meets the NRC's unrestricted use dose limits specified in 10 CFR Part 20, § 20.1402. The third phase involves the licensee's decommissioning contractor performing soil borings to localize and characterize the nonfunctional septic tank. The contractor will remove the septic tank if characterization data determines that the radiological levels in the soil in and around the septic tank are above the NRC unrestricted use limits specified in NUREG–1757, Vol. 2, Appendix H, ''Screening Values pCi/g of Common Radionuclides for Soil Surface Contamination Levels'' (ML053260027). The final phase is the conduct of the final status survey. The licensee projects that the total remediation and decommissioning time will require approximately 12 weeks after the licensee's decommissioning contractor has mobilized to the site.

The licensee's objective for the decommissioning project, as described in the DP, is to remediate residual contamination in affected buildings or any other areas sufficiently to enable unrestricted use, while ensuring exposures to occupational workers and the public during the decommissioning are maintained as low as reasonably achievable (ALARA). The Sigma-Aldrich Company's DP proposes to use Derived Concentration Guideline Levels (DCGLs) that are screening values developed by NRC (65 FR 37186, June 13, 2000) to demonstrate compliance with the radiological criteria for unrestricted use in 10 CFR 20.1402. The 10CFR20.1402 criteria specifies that the Total Effective Dose Equivalent (TEDE) received by an average member of the critical group from residual radioactivity can not exceed 25 mrem per year (mrem/y) and that the residual radioactivity has been reduced to levels that are as low as reasonably achievable (ALARA). Two radionuclides (carbon-14 and hydrogen-3) were identified as relevant to the decontamination activities at the Fort Mims Facility and site. The areas being released under this decommissioning effort will be surveyed in accordance with the guidance contained in the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM), NUREG–1575 (ML082470583).

The licensee established in the DP a commitment to use a lower administrative dose limit of 10 mrem/y as the basis for determining the site release criteria for decontamination and decommissioning of the Facility. To achieve this goal, the licensee committed to limiting contamination levels on building surfaces to approximately forty per cent of the NRC

default screening values specified in NUREG–1757, Volume 2, Appendix H. The acceptable screening levels for unrestricted release for carbon-14 and hydrogen-3, specified in Appendix H are 3.7 E+6 and 1.2E+8 disintegrations per minute per 100 centimeters squared (dpm/100 cm^2), respectively. The licensee's administrative limits for carbon-14 and hydrogen-3 are 1.48 E+6 and 4.8 E+7 dpm/100 cm^2, respectively or evaluation and release of surface soils, the licensee provided DCGL values for carbon-14 and hydrogen-3, the only 2 radionuclides identified as potential soil contaminants for the Fort Mims site. Using the screening analysis approach, the DCGLs for carbon-14 and hydrogen-3 were taken directly from Appendix H of NUREG–1757, Vol. 2, Table H.2. The default screening values were 12 and 110 picocuries per gram (pCi/g) for carbon-14 and hydrogen-3, respectively. As with the building surface DCGL values each of the above default surface soil DCGL values represents the activity equivalent to a dose of 25 mrem/year.

Need for the Proposed Action

The purpose of the proposed action is to reduce residual radioactivity at the Sigma-Aldrich Company's Fort Mims Facility and site to a level that permits release of the property for unrestricted use. The NRC is fulfilling its responsibility under the Atomic Energy Act to make a decision on a proposed action for decommissioning that ensures protection of the public health and safety and the environment. The application for license amendment and NRC approval is necessary for the licensee to proceed with the decommissioning activities as required by the timeliness requirements of 10 CFR 30.36(g). A change to the current license is necessary, since no decommissioning activities are presently authorized.

Environmental Impacts of the Proposed Action

The NRC staff has reviewed the decommissioning plan for the Sigma-Aldrich Company's Facility and examined the impacts of decommissioning. Based on its review, the staff has determined that the affected environment and the environmental impacts associated with this decommissioning 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). Additionally, no non-radiological impacts were identified. The staff also finds that the proposed decommissioning of the Sigma-Aldrich Company's Fort Mims site is in compliance with 10 CFR 20.1402, the radiological criteria for unrestricted use.

Contamination controls will be implemented during decommissioning to prevent airborne and surface contamination from escaping the remediation work areas, and therefore, no release of airborne contamination is anticipated. However, the potential will exist for generating airborne effluents during removal and handling of contaminated materials. If produced, any effluents from the proposed decommissioning activities would be treated to meet the requirements in 10 CFR Part 20. Radioactive waste (*e.g.*, HEPA filters, metals and concrete cuttings, etc.) will be containerized onsite pending shipment to a licensed radioactive waste treatment or disposal facility. No liquid effluents are expected to be generated during decommissioning.

The Sigma-Aldrich Company will use a decommissioning subcontractor to perform remediation activities at the Facility. The contractor will perform these activities under the authority of an NRC Agreement State license issued by the State of Massachusetts (Massachusetts Materials License No. 56–0543). The Sigma-Aldrich Company will oversee the activities and will maintain primary responsibility for the decommissioning project. The contractor has developed adequate radiation protection procedures and capabilities and will implement an acceptable program to keep exposure to radioactive materials ALARA. As noted above, Sigma-Aldrich Company has prepared a DP describing the work to be performed, and work activities are not anticipated to result in a dose to workers or the public in excess of the 10 CFR Part 20 limits. NRC's past experience with decommissioning activities at sites similar to the Sigma-Aldrich Company site indicate that public and worker exposure will be far below the limits in 10 CFR Part 20, ''Standards for Protection Against Radiation.''

Environmental Impacts of the Alternatives to the Proposed Action

The no action alternative would leave the site in its existing condition without decommissioning, which would keep the licensed material onsite, without disposal. This alternative would increase the radiological risk to the local community and the environment. This alternative is not acceptable because it will result in violation of NRC's Timeliness Rule (10 CFR 30.36), which requires licensees to remove licensed materials onsite during decommissioning of their facilities when licensed activities cease, and to request termination of their radioactive materials license.

Conclusion

The NRC staff has concluded that the proposed action complies with 10 CFR Part 20 ''Standards for Protection Against Radiation.'' Further, the decommissioning of the Fort Mims Facility and site to the DCGLs proposed for this action reduces the residual contamination levels at the site, enabling release of the site for unrestricted use and will allow the termination of the radioactive materials license. The NRC does not expect any radiologically contaminated effluents to be released during the decommissioning. The occupational doses to decommissioning workers are expected to be low and well within the limits of 10 CFR Part 20. No radiation exposure to any member of the public is expected, and public exposure would therefore, also be less than the applicable public exposure limits of 10 CFR Part 20.

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

The NRC staff consulted with the Missouri Department of Health and Senior Services on December 1, 2008, regarding review of the DP, and on April 15, 2009, regarding this Environmental Assessment (EA) for the license amendment to authorize decommissioning activities. The State Department of Health and Senior Services is the State's Radiation Protection Agency, and has been routinely informed of NRC's intention to approve the completion of decommissioning at the Sigma-Aldrich Company Site. The State informed the NRC on April 15, 2009, that they had no comments on either the Sigma-Aldrich Company DP or EA.

The NRC staff consulted with the Missouri Department of Conservation, Wildlife Division, Endangered Species, on March 5, 2009, (ML090640890) as required by Section 7 of the Endangered Species Act. The purpose of the call was to ensure that the licensing action is ''not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of the habitat of such species.'' The

Missouri Wildlife Division staff indicated that based on their review and knowledge of current documents relating to possible endangered species that the decommissioning and release of the Sigma Aldrich Company building located in Maryland Heights, Missouri as discussed would not affect any endangered species.

The NRC staff consulted with the Missouri Department of Natural Resources, as required by Section 106 of the National Historic Preservation Act. The Act requires the NRC to meet certain requirements in the protection of cultural and historical resources. In a March 19, 2009 (ML090860375) letter from the Department of Natural Resource's State Historic Preservation Office, Director and Deputy State Historic Preservation Officer, the State indicated that ''We have reviewed the information provided concerning the above referenced project. Based on this review we concur that the Sigma Aldrich Chemical Company is not eligible for inclusion in the National Register of Historic Places. In our opinion, the property has been extensively disturbed, and there is little potential for the occurrence of archaeological sites. We concur that there will be no historic properties affected and we have no objection to the initiation of project activities.''

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

1. U.S. NRC, ''Consolidated NMSS Decommissioning Guidance, Decommissioning Process for Materials Licensees,'' NUREG–1757:
   - Volume 1, Decommissioning Process for Materials Licensees (ML063000243)
   - Volume 2, Characterization, Survey, and Determination of Radiological Criteria (ML053260027)
   - Volume 3, Financial Assurance, Record Keeping, and Timeliness (ML032471471)
2. U.S. NRC, ''Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM),'' NUREG–1575, Revision 1, August 2000 (ML082470583)
3. October 22, 2008, Letter from Sigma-Aldrich Company to NRC Region III, ''Subject: Timely Notification of Cessation of Licensed Activities and Submittal of Decontamination and Decommissioning Plan'' (ML083010187)
4. October 22, 2008, Document from Sigma-Aldrich Company to NRC Region III, ''Subject: Sigma-Aldrich—Health Physics and Instrument Operations Procedures—Table of Contents'' (ML083010203)
5. October 22, 2008, Document from Sigma-Aldrich Company to NRC Region III, ''Subject: Sigma-Aldrich, Decommissioning Plan Checklist'' (ML083010210)
6. October 23, 2008, NRC Region III Inspection Report for Sigma-Aldrich Company, ''Subject: Form 591M IR 03010716–08–001 on 10/22–24/2008, Sigma-Aldrich Company'' (ML083080152)
7. November 24, 2008, NRC Region III letter to Sigma-Aldrich Company, ''Subject: Acknowledgement of Receipt of DP for the Fort Mims Facility and Acceptance for Technical Review for Amendment to License, Control No. 317645'' (ML083450660)
8. December 10, 2008, NRC Region III Trip Report and Request for Additional Information (RAI) regarding Sigma-Aldrich Company, ''Subject: December 10, 2008, Decommissioning Plan License Meeting and NRC RAI'' (ML090150318)
9. December 15, 2008, Sigma-Aldrich Company letter to NRC Region III, ''Subject: Request to NRC for Permission to Proceed with the Open Land Soil Sampling and Analysis Plan'' (ML083510259)
10. December 15, 2008, Sigma-Aldrich Company letter to NRC Region III, ''Subject: Notification of Revised Decommissioning Plan to Incorporate Phased Remediation'' (ML083510270)
11. December 16, 2008, NRC Region III Inspection Report for Sigma-Aldrich Company, ''Subject: Form 591M IR–03017016–08–002 on 12/10/08 & 12/11/08, Sigma-Aldrich Company'' (ML083530478)
12. December 19, 2008, NRC Region III issued Federal Register Notice, ''Subject: Notice of Amendment Request for Decommissioning of the Sigma-Aldrich Chemical Company's Fort Mims Facility, Maryland Heights, Missouri and Opportunity to Request a Hearing'' (ML083430580)
13. January 23, 2009, NRC Region III letter to Sigma-Aldrich Company, ''Subject: Approval for Sigma-Aldrich Fort Mims facility to proceed with Soil Sampling and Analysis Plan under authority of Philotechnics license'' (ML090270093)
14. February 6, 2009, Sigma-Aldrich Company letter to NRC Region III, ''Subject: Response to Request for Additional Information Regarding Staff Review of Decommissioning Plan Dated October 22, 2008'' (ML090500166)
15. March 5, 2009, NRC Region III Telephone Conversation Record with State of Missouri Department of Conservation, ''Subject: Consultation with State of Missouri Department of Conservation, Regarding Endangered Species'' (ML090640890)
16. March 6 & 11, 2009, NRC Region III Telephone Conversation Record with Sigma-Aldrich Company, ''Subject: Discussion Regarding Request for Additional Information Responses from Sigma-Aldrich for Review of Decommissioning Plan'' (ML090770368)
17. March 19, 2009, State of Missouri Department of Natural Resources letter to NRC Region III, ''Subject: Completion of the Section 106 Review for Sigma-Aldrich Decommissioning Project by the State Historic Preservation Office with No Findings of Historic Properties Affected'' (ML090860375)

Dated at Lisle, Illinois, this 28th day of April 2009.

For the Nuclear Regulatory Commission.

William G. Snell,

Acting Chief, Materials Control, ISFSI, and Decommissioning Branch, Division of Nuclear Materials Safety, Region III.

[FR Doc. E9–10620 Filed 5–6–09; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC–2009–0198; Docket No. 50–455]

Exelon Generation Company, LLC; Byron Station, Unit No. 2; Exemption

1.0 Background

Exelon Generation Company, LLC (Exelon, the licensee) is the holder of Facility Operating License No. NPF–66 which authorizes operation of the Byron Station, Unit No. 2 (Byron 2). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility is one unit of a two-unit pressurized-water reactor station located in Ogle County, Illinois.

2.0 Request/Action

Pursuant to Title 10 of the Code of Federal Regulations (10 CFR), Section 50.12, ''Specific exemptions,'' the licensee has, by letter dated March 24, 2008 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML080850235), requested an exemption from the requirements of 10 CFR 50.46, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' and 10 CFR Part 50, Appendix K, ''ECCS Evaluation Models,'' for one lead test assembly (LTA) using Westinghouse AXIOM™ cladding.

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™. 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 or 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. However, as discussed subsequently in Sections 3.0 and 4.0, the NRC staff determined that a broad exemption from all the requirements of 10 CFR 50.46 and 10 CFR Part 50, Appendix K, is not required in this particular circumstance.

The licensee plans to use one LTA, containing fresh and twice-burned AXIOM™ clad fuel rods, in the Byron 2 Cycle 16 reactor core. The twice-burned AXIOM™ clad fuel rods would continue to be irradiated up to a lead rod average burnup of up to 75,000 megawatt days per metric ton uranium (MWD/MTU).

Previously, by letter dated June 30, 2006 (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. During this third cycle, the twice-burned fuel rods will reach a peak rod average burnup of 75,000 MWD/MTU, which exceeds the NRC staff's burnup limit of 62,000 MWD/MTU (ADAMS Accession No. ML061420458), based on the capabilities of the fuel performance and design models for Westinghouse VANTAGE+ fuel, which is used in the Byron 2 reactor core.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The Commission will not consider granting an exemption unless special circumstances are present.

Authorized by Law

This exemption would allow the licensee to re-insert one LTA containing AXIOM™ fuel rod cladding that is neither Zircaloy nor ZIRLO™, which are the cladding materials contemplated by 10 CFR 50.46(a)(1)(i) and by 10 CFR Part 50, Appendix K, paragraph I.A.5. Selection of a specific cladding material in 10 CFR 50.46(a)(1)(i) and in 10 CFR Part 50, Appendix K, paragraph I.A.5 was at the discretion of the Commission consistent with its statutory authority. No statute required the NRC to adopt this specification. As stated above, 10 CFR 50.12 allows the Commission to grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting of an exemption from 10 CFR 50.46(a)(1)(i) and from 10 CFR Part 50, Appendix K, paragraph I.A.5 related to AXIOM™ fuel rod cladding, which is neither Zircaloy nor ZIRLO™, will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law. Furthermore, the NRC staff has determined that, because the licensee plans to ensure that the acceptance and analytical criteria of 10 CFR 50.46 and 10 CFR Part 50, Appendix K are met following the insertion of the subject LTA, exemption from the remaining requirements of 10 CFR 50.46 and 10 CFR Part 50, Appendix K is not required.

No Undue Risk to Public Health and Safety

In its March 24, 2008 letter, the licensee provided technical justification to support its conclusion that irradiating one LTA, containing fresh and twice-burned AXIOM™ clad fuel rods, in the Byron 2 Cycle 16 reactor core, up to a lead rod average burnup of up to 75,000 MWD/MTU would result in no undue risk to public health and safety. The licensee's technical justification and the NRC staff's associated conclusions follow.

Fuel Mechanical Design Considerations

Prior to Byron 2 Cycle 16, characterization of the twice-burned AXIOM™ fuel rods will be performed

to include an overall visual examination and measurements of cladding oxide, fuel rod growth, and diameter profile. Prior to irradiating the LTA during Byron 2 Cycle 16, the twice-burned AXIOM™ clad fuel rods will be evaluated with current fuel performance methods and codes to ensure that all current design criteria are met for the projected burnup. The licensee stated that if some of the AXIOM™ clad twice-burned rods scheduled for reconstitution exhibit anomalous behavior, have measured characteristics of oxide thickness or rod length that are outside acceptable bounds, or are determined incapable of meeting all current design requirements, those twice-burned rods will not be used for reconstitution and will be replaced with rods meeting the reload requirements. The licensee also stated that, to ensure that the acceptance criteria of 10 CFR 50.46 and 10 CFR Part 50, Appendix K, are met, the LTA using AXIOM™ cladding will be evaluated using NRC-approved analytical methods and will address the changes in the cladding material properties and that the reload core containing AXIOM™ cladding will continue to be operated in accordance with the operating limits specified in the Byron Station Technical Specifications (TS). Based upon the limited number of AXIOM™ clad fuel rods, the PIE and characterization which would detect anomalous behavior, the use of NRC-approved models to ensure that all design criteria remain satisfied, and the requirement to operate the Byron Cycle 16 core within TS limits, the NRC staff finds the LTA mechanical design acceptable for Byron 2 Cycle 16.

Traditionally, the NRC staff had two criteria for LTA programs: (1) The number of LTAs should be limited, and (2) the core locations of LTAs should be non-limiting (i.e., not in the highest power regions). In 2003, the NRC staff endorsed the concept of locating LTAs next to the highest power or high-duty regions for simulating typical reactor operations. By letters dated January 8 and August 29, 2003 (ADAMS Accession Nos. ML030070476 and ML032410054, respectively), the NRC staff approved Westinghouse Topical Report WCAP–15604–NP, Revision 1, ''Limited Scope High Burnup Lead Test Assemblies,'' which provides the basis and guidelines for the operation of a limited number of LTAs for a high burnup irradiation program. Based on the licensee's planned LTA program, the NRC staff considers that the burnup extension is consistent with the approved report. Based on the approved report, acceptable PIEs for the Byron LTAs prior to the second cycle of irradiation, and the licensee's plans for PIE and characterization of the twice-burned fuel rods prior to the third cycle of irradiation, the NRC staff concludes that it is acceptable to extend the LTA burnup limit to a peak rod average of 75,000 MWD/MTU for Byron Unit 2.

The Byron 2 reactor core contains a total of 193 fuel assemblies; each fuel assembly contains 264 fuel rods. As mentioned previously, the Byron 2 Cycle 16 LTA, which is the subject of the licensee's exemption request, will consist of up to 16 twice-burned fuel rods in AXIOM™ cladding with the remainder (and the majority) being fresh fuel rods in AXIOM™ cladding, and will be placed in the Cycle 16 reactor core in a non-limiting core location. The licensee stated that setting the number of AXIOM™ clad rods at this level restricts the portion of such rods to a value of 0.52 percent, which, even if failed, is well within the postulated core damage in the Byron Station's current licensing basis. The licensee also stated that, even though there have been no AXIOM™ clad fuel rod failures in the industry to date, if a failure were to occur, the effects would be well within the TS limits for doses and core coolable geometry would be maintained. Based upon the limited number of AXIOM™ clad fuel rods placed in non-limiting core locations, the use of approved models and methods, and the acceptable performance to date of the AXIOM™ cladding, the NRC staff finds that the irradiation of the subject LTA in the Byron 2 Cycle 16 core will not result in unsafe operation nor violation of specified acceptable fuel design limits. Furthermore, in the event of a design-basis accident, these LTAs will not promote consequences beyond those currently analyzed, as discussed next.

Dose Analyses Considerations for Extended Burnup

The licensee stated in its March 24, 2008 letter, that the assessment contained in Westinghouse Topical Report WCAP–12610–P–A, ''VANTAGE + Fuel Assembly Reference Core Report,'' April 1995, concluded that the fuel-handling accident (FHA) total effective dose equivalent doses are not adversely affected by extended burnup up to 75,000 MWD/MTU. However, the licensee recognized that there is uncertainty in fission product gap inventory, due to the limited fission gas release measurements on high burnup fuel, and provided a discussion of the conservatisms in the Byron FHA dose calculation. These included use of the alternative source term (AST) methodology, the relative power for this particular LTA in Cycle 16, offloading time, containment isolation, and mechanical fuel damage due to impact.

AST Methodology

The NRC approved the use of an AST methodology for Byron Station in License Amendment No. 147, dated September 8, 2006 (ADAMS Accession No. ML062340420). The analyses provided by the licensee in support of the amendment and approved by the NRC staff used gap release fractions for accidents other than the loss-of-coolant accident (LOCA), which are two times the values in Table 3 of Regulatory Guide (RG) 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' July 2000. The factor of two was used to offset the fact that some fuel assemblies would exceed the rod power/burnup criteria in RG 1.183. For the FHA, all of the fuel rods in the limiting assembly were assumed to fail, releasing their fuel/clad gap fission product inventory. The NRC staff has previously found this approach acceptable in the safety evaluation accompanying the above-cited amendment.

LTA Relative Power

The licensee stated that, due to its high burnup, the LTA's relative power will not approach the 1.7 peaking limit assumed in the Updated Final Safety Analysis Report (UFSAR). The Byron 2 Cycle 16 reactor core will be designed such that the LTA will remain in a non-limiting location. Therefore, with more appropriate relative assembly powers credited for both the LTA and other potentially-impacted assemblies, the calculated dose would decrease. Although relative assembly powers are not generally credited in design-basis accident (DBA) radiological consequences analyses, the NRC staff finds that the specific situation described above does show that conservatism exists in the current licensing basis FHA analysis when compared to the expected impact of dropping the extended burnup LTA.

Offloading Time

The licensee stated that, although the FHA calculation assumes that core offload begins no sooner than 48 hours after shutdown, in practice, core offload typically commences much later than 48 hours after entry into Mode 3. However, because the licensee did not provide supporting documentation on how it would assure the expected >48 hours to start core offload (i.e., TS, physical constraints, procedures, etc.), the NRC staff finds that this conservatism cannot

be credited as a conservatism related to this exemption request for the subject LTA. However, the NRC staff notes that other conservatisms in the FHA, discussed previously and below, more than offset this non-credited core offload time.

Containment Isolation

In accordance with Byron Station TS 3.9.4, the movement of recently irradiated fuel (i.e., fuel that has occupied part of a critical reactor core within the previous 48 hours) requires that containment integrity be in effect. Fuel with additional decay can be moved without containment integrity or exhaust filtration. Compensatory measures to close any openings and ensure exhaust is in the proper direction within 1 hour after a FHA are required procedurally as defense-in-depth measures; however, they are not credited in the analysis in accordance with RG 1.183. The NRC staff, in its review of the licensee's AST methodology, has previously found this approach acceptable and would, therefore, apply to movement of the LTA.

Mechanical Fuel Damage Due to Impact

The Byron Station UFSAR analysis assumes all rods of the dropped assembly fail. The licensee stated that this is a very conservative assumption given the broad spectrum of loads considered and the resulting high structural strength of the fuel assembly and other core components. The licensee also stated that irradiated fuel assembly drop events (e.g., Fort Calhoun in 2003, North Anna in 2001, and Haddam Neck in 1986) have also yielded no increase in local area dose rates. The NRC staff concludes that the amount of assumed fuel damage in the current licensing basis is conservative based on fuel mechanical design and actual industry experience, even if the FHA were to involve the subject LTA.

The NRC staff finds that the conservatisms associated with the AST analysis, LTA relative power, compensatory measures during irradiated fuel movement, and FHA fuel damage assumptions compensate for the uncertainties in the gap fractions. Therefore, the fission product gap inventory assumed in the current licensing basis FHA radiological assessment remains bounding for the extended burnup LTA.

For other DBAs, even though extended burnup to 75,000 MWD/MTU for the one LTA would cause a variation in the core inventory compared to the current fuel, there are no significant increases to isotopes that are major contributors to accident doses. Therefore, the NRC staff finds that current licensing basis DBA results remain bounding for estimated offsite and control room operator doses and the radiation dose limitations of 10 CFR 50.67, ''Accident Source term,'' and 10 CFR Part 50, Appendix A, GDC–19, ''Control Room,'' will not be exceeded. The NRC staff finds that the licensee used assumptions, inputs, and methods that are consistent with the conservative regulatory requirements and guidance identified above. Based on the Byron Station current licensing bases and the acceptable conservatisms discussed above, the NRC staff finds with reasonable assurance that the licensee's estimates of the exclusion area boundary, low-population zone, and control room doses will continue to comply with the applicable regulatory criteria. Therefore, the proposed extension of the fuel rod average burnup limit for one LTA is acceptable with regard to the radiological consequences of postulated DBAs.

Conclusion

Based upon the limited number and anticipated performance of the AXIOM™ clad fuel rods, the use of PIE and characterization to detect anomalous behavior to preclude further irradiation damage, and the use of NRC-approved models to ensure that all design criteria remain satisfied, the NRC staff finds the use of the subject LTA up to 75,000 MWD/MTU in the Byron 2 Cycle 16 reactor core to be acceptable.

Consistent With Common Defense and Security

The proposed exemption would allow the use of one LTA with a variant cladding material. This change to the plant core configuration has no impact on security issues. Special nuclear material in the LTA will continue to be handled and controlled in accordance with applicable regulations. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

In accordance with 10 CFR 50.12(a)(2)(ii), special circumstances are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of 10 CFR 50.46(a)(1)(i) is to establish acceptance criteria for ECCS performance. Previously, on June 30, 2006, the NRC staff approved an exemption for four Byron LTAs that demonstrated the acceptability of the AXIOM™ cladding under LOCA conditions (ADAMS Accession No. ML061380518). The unique features of the LTAs were evaluated for effects on the LOCA analyses. The results showed that the LTAs would not adversely affect ECCS performance. Because the current LTA will be located in a non-limiting core location, the licensee concluded and the NRC staff agrees that the LOCA safety analyses will remain bounding for the Cycle 16 LTA for Byron 2. Therefore, the NRC staff concludes that application of 10 CFR 50.46(a)(1)(i) in this particular circumstance is not necessary for the licensee to achieve the underlying purpose of the rule.

10 CFR Part 50, Appendix K

Paragraph I.A.5 of Appendix K to 10 CFR Part 50 states 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.'' The Baker-Just equation, developed in 1962, presumed the use of zircaloy clad fuel, and thus did not address AXIOM™ clad fuel for determining acceptable fuel performance. The underlying intent of this portion of Appendix K is to ensure that analysis of fuel response to LOCAs is conservatively calculated. Previously, in its June 30, 2006, exemption for four Byron LTAs with AXIOM™ clad fuel rods (ADAMS Accession No. ML061380518), the NRC staff concluded that, based on the material composition of the AXIOM™ alloy, which is similar to other licensed zirconium alloys, the high temperature metal-water reaction rates are expected to be similar. The NRC staff also concluded that, because of the limited number of AXIOM™ clad fuel rods and the similarity in material composition to other advanced cladding materials, the application of the Baker-Just equation in the analysis of the four Byron LTAs with AXIOM™ clad fuel rods was acceptable. Based on the NRC staff's previous conclusions for four LTAs with AXIOM™ clad fuel rods, the NRC staff concludes that an exemption from 10 CFR Part 50, Appendix K, as requested by the licensee, is not necessary for the licensee's request to apply the Baker-Just equation to the one LTA with AXIOM™ clad fuel rods planned for insertion in the Byron 2 Cycle 16 reactor core, because application of the Baker-Just equation in this circumstance will achieve the underlying purpose of the rule.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption from the

requirements of 10 CFR 50.46(a)(1)(i) is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants the licensee an exemption from the requirement of 10 CFR 46(a)(1)(i) related to fuel cladding material to allow one LTA containing AXIOM™ clad fuel rods to be irradiated in Byron 2 during Cycle 16 up to a lead rod average burnup of up to 75,000 MWD/MTU. The remaining requirements of 10 CFR 50.46 remain in effect for the Byron 2 Cycle 16 reactor core.

Furthermore, for the reasons stated in the previous section, the Commission has determined that an exemption from the requirements of 10 CFR Part 50, Appendix K, is not required. Therefore, the Commission is not issuing an exemption from 10 CFR Part 50, Appendix K for the Byron 2 Cycle 16 reactor core.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the exemption from 10 CFR 46(a)(1)(i) will not have a significant effect on the quality of the human environment (74 FR 20000; April 30, 2009).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of April 2009.

For the Nuclear Regulatory Commission.

Joseph Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–10619 Filed 5–6–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request To Amend a License for the Export of Radioactive Waste

Pursuant to 10 CFR 110.70(b) ''Public Notice of Receipt of an Application,'' please take notice that the Nuclear Regulatory Commission (NRC) has received the following request to amend an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/reading-rm.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within thirty days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E–Filing rule promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). Information about filing electronically is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. To ensure timely electronic filing, at least 5 (five) days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by e-mail at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty (30) days after publication of this notice in the **Federal Register** to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, *Attention:* Rulemaking and Adjudications.

The information concerning the application follows.

NRC APPLICATION TO AMEND LICENSE FOR THE EXPORT OF RADIOACTIVE WASTE

Name of Applicant, date of Application, date received, application No., docket No.	Description of material		End use	Recipient country
	Material type	Total quantity		
Diversified Scientific Services, Inc. (DSSI), February 26, 2009, February 27, 2009, XW008/03, 11005323.	Class A radioactive mixed waste.	License to be amended to: (1) Extend the expiration date from 03/31/09 to 12/31/13; and (2) add authorization to export any waste generated as a result of processing materials imported from Atomic Energy of Canada, Limited (AECL) under IW012, as amended.	Return of non-conforming waste and/or waste resulting from processing materials imported to AECL for appropriate disposition.	Canada.

For the Nuclear Regulatory Commission.

Dated this 30th day of April 2009 at Rockville, Maryland.

Scott W. Moore,

Deputy Director, Office of International Programs.

[FR Doc. E9–10610 Filed 5–6–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS392/1]

WTO Dispute Settlement Proceeding Regarding United States—Certain Measures Affecting Imports of Poultry From China

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on April 17, 2009, the People's Republic of China (''China'') requested consultations with the United States under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO Agreement'') with respect to certain measures affecting the import of poultry products from China into the United States. That request may be found at *www.wto.org* contained in a document designated as WT/DS392/1.

USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before June 5 to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to *http://www.regulations.gov,* docket number USTR–2009–0014. If you are unable to provide submissions by *http://www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission. If (as explained below) the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395–3640.

FOR FURTHER INFORMATION CONTACT: David Yocis, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395–9663.

SUPPLEMENTARY INFORMATION: USTR is providing notice that consultations have been requested pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (''DSU''). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by China

On April 17, 2009, China requested consultations regarding section 727 of the Omnibus Appropriations Act, 2009 (Pub. L. 111–8), which prohibits the use of funds appropriated under that Act from being used to establish or implement a rule allowing poultry products to be imported into the United States from China. According to China, section 727 effectively prohibits the U.S. Department of Agriculture from establishing or implementing measures allowing for the importation from China of poultry products or taking actions to expand the class of poultry products from China eligible for import into the United States. China alleges that, by precluding the use of funds to enable imports from China of poultry products, the United States maintains a quantitative restriction in breach of Article XI:1 of the *General Agreement on Tariffs and Trade 1994* (''GATT 1994'') and Article 4.2 of the *Agreement on Agriculture.* In addition, China alleges that by imposing this restriction with respect to imports from China, but not those of other WTO Members, the United States acts inconsistently with Article I:1 of the GATT 1994.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to *http://www.regulations.gov* docket number USTR–2009–0014. If you are unable to provide submissions by *http://www.regulations.gov,* please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via *http://www.regulations.gov,* enter docket number USTR–2009–0014 on the home page and click ''go''. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Send a Comment or Submission.'' (For further information on using the *http://www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page.)

The *http://www.regulations.gov* site provides the option of providing comments by filling in a ''General Comments'' field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''General Comments'' field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to *http://www.regulations.gov.* The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to *http://www.regulations.gov.* The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments open to public inspection may be viewed on the *http://www.regulations.gov* Web site.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E9–10623 Filed 5–6–09; 8:45 am]

BILLING CODE 3190–W9–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Harvard Industries, Inc., HealthCor Holdings, Inc., and Helm Capital Group, Inc. Order of Suspension of Trading

May 5, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Harvard Industries, Inc. because it has not filed any periodic reports since it filed a Form 10–Q for the period ended June 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of HealthCor Holdings, Inc. because it has not filed any periodic reports since it filed a Form 10–Q for the period ended March 31, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Helm Capital Group, Inc. because it has not filed any periodic reports since it filed a Form 10–QSB for the period ended September 30, 2000.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 5, 2009, through 11:59 p.m. EDT on May 18, 2009.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E9–10716 Filed 5–5–09; 4:15 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59855; File No. 4–581]

Roundtable on Short Selling Price Test Restrictions and Short Sale Circuit Breakers

AGENCY: Securities and Exchange Commission.

ACTION: Notice of roundtable discussion; request for comment.

SUMMARY: In light of current instability in the financial markets and the erosion of investor confidence, the Commission is evaluating the issue of short sale price test restrictions and short sale circuit breakers. On April 8, 2009, the Commission unanimously voted to propose two new approaches to short selling regulation. The first approach proposes two permanent market-wide short sale price test restrictions. The second approach proposes three circuit breaker rules that, when triggered by a significant intraday decline in a security's price, would impose either a temporary halt on short selling of an individual security, or a temporary price test restriction.

The proposing release is available on the Commission's Internet Web site at *http://www.sec.gov/rules/proposed/2009/34–59748.pdf.* The Commission will host a roundtable to discuss the effectiveness and impact of short sale price test restrictions generally, as well as the proposed regulatory alternatives. The roundtable discussion will be held in the auditorium of the Securities and Exchange Commission headquarters at 100 F Street, NE., in Washington, DC on May 5, 2009 from 10 a.m. to approximately 3:30 p.m. The public is invited to observe the roundtable discussion. Seating will be available on a first-come, first-served basis. The roundtable discussion also will be available via webcast on the Commission's Web site at *http://www.sec.gov.*

DATES: The roundtable discussion will take place on May 5, 2009. The Commission will accept comments regarding issues addressed in the roundtable discussion and otherwise regarding the proposed rule amendments until June 19, 2009.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/news/press.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number 4–581 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number 4–581. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: The Division of Trading and Markets, at (202) 551–5720, Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–7561.

SUPPLEMENTARY INFORMATION: On April 8, 2009, the Commission proposed amendments to Rule 201 of Regulation SHO under the Securities Exchange Act of 1934. The proposed amendments would permanently place restrictions on the prices at which NMS stocks may be sold short (''short sale price tests'' or ''short sale price test restrictions'') or would impose temporary limitations on short selling in a particular NMS stock during a specified market decline in the price of that security (''proposed circuit breaker rules''). In connection with the proposed short sale price tests and the proposed circuit breaker rules, the Commission also proposed to amend Regulation SHO to require that a broker-dealer mark a sell order ''short exempt'' if the seller is relying on an exception to a proposed short sale price test restriction or a proposed circuit breaker rule.

The proposed amendments would come almost two years after the Commission eliminated all short sale price test restrictions in July 2007. Prior to removing short sale price test restrictions, the Commission reviewed the issue extensively, sought public comment and directed staff study and empirical analysis on the market impact of short sale price test restrictions over a period of several years.

As the current financial crisis has continued to erode investor confidence, the Commission has received requests from many commenters to consider imposing restrictions with regard to short selling, in particular to reinstate some form of short sale price test restrictions. Due to the extreme current market conditions, the Commission believes it is appropriate at this time to examine and seek comment on whether to impose a short sale price test or a short sale circuit breaker rule. The May 5, 2009 roundtable will help ensure that any policy decisions the Commission

makes based on these proposals is the product of a highly deliberate evaluation process.

Dated: May 1, 2009.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–10483 Filed 5–6–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59852; File No. SR–Phlx–2009–39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating To Trading Post/Booth and Registration Fees

April 30, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on April 24, 2009, NASDAQ OMX PHLX, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Fee Schedule to: (1) Rename the Trading Post/Booth fee and increase the fee from $250 to $300 per month; (2) designate certain space on the trading floor as Market Maker Trading Space and assess members a fee of $300 per month; (3) eliminate the Trading Post with Kiosk fee of $375 per month and replace it with a Specialist Post fee of $4,500 per month for a full post and $1,125 per month for a quarter post, up to a maximum of $4,500; (4) increase the Floor Facility fee from $125 to $200 per month; (5) increase the Trading Floor Personnel Registration fee from $25 to $50 per month; and (6) make other minor amendments to the Fee Schedule.

While changes to the Exchange's fee schedule pursuant to this proposal are effective upon filing, the Exchange has designated this proposal to be effective on May 1, 2009.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to increase the costs of certain floor-related charges due to a rise in occupancy expenses. The Exchange proposes to adjust its fees related to certain trading floor charges to keep pace with the rising overhead costs associated with maintaining the trading floor. The Exchange has not made any significant changes to these fees in several years.

The Exchange proposes to increase the Trading Post/Booth fee from $250 to $300 per month. The Trading Post/Booth space is physical space on the Exchange's trading floor, which space typically is used by floor brokers. The Exchange proposes to increase this fee to cover increasing occupancy costs, such as electricity usage due to the increase of member computers on the trading floor. Additionally, the Exchange proposes to rename the Trading Post/Booth fee as the ''Trading/Administrative Booths and Market Maker Trading Space'' fee. The Exchange proposes to designate certain space on the trading floor to be termed as ''Market Maker Trading Space'' and assess members $300 per month for that space. The Exchange would clearly define space where Register Options Traders could locate computer and related equipment required to function as a Streaming Quote Trader.[3] The Exchange proposes to implement this fee to cover increasing costs associated with the trading floor.

The Exchange proposes to eliminate the Trading Post with Kiosk fee of $375. The kiosk is an open, flat surface that contains computer terminals and allows specialists to face the trading crowd. The fee is currently imposed on specialists with a trading post with kiosk on the trading floor. Instead, the Exchange proposes to adopt a Specialist Post fee which would vary with the size of the post. Specialists would be assessed a Specialist Post fee of $1,125 per month for a quarter post and $4,500 per month for a full post with a maximum fee of $4,500 per month. Currently the specialists have multiple, contiguous, trading posts with kiosks on the trading floor. This fee should result in no additional increase to the specialists currently on the trading floor as the total amount paid currently for each trading post with kiosk, or $375, multiplied by the total number of posts utilized is equivalent to the fee range of the proposed charges, $1,125 for a quarter post and $4,500 for a full post, per month. Additionally, the Exchange is capping the total amount of fees paid by a specialist for the Specialist Post fee at $4,500 per month. The posts would continue to facilitate specialist interaction with the trading crowd.

The Exchange proposes to increase the Floor Facility fee from $125 to $200 per month. The Floor Facility fee is applicable to floor members and foreign currency options participants that are not currently assessed fees related to the usage of a Trading Post/Booth and would not be assessed a Trading/Administrative Booths and Market Maker Trading Space fee. The Floor Facility fee is intended to fairly allocate costs attendant to providing members and participants with services necessary to the conduct of business on the floor of the Exchange. The Exchange proposes to increase this fee to offset the increased costs of operating a trading floor facility.

The Exchange also proposes increasing the Trading Floor Personnel Registration fee from $25 to $50 per month. Pursuant to Exchange Rule 620 [4] all trading floor personnel are required to be registered with the Exchange. This

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Streaming Quote Trader or SQT is an Exchange Registered Options Trader (''ROT'') who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. *See* Exchange Rule 1014(b)(ii)(A).

[4] *See* Exchange Rule 620(a), titled Trading Floor Personnel Registration, ''Each Floor Broker, Specialist and Registered Options Trader on any Exchange trading floor must register as such with the Exchange. * * *''

fee is imposed on members and participant organizations for individuals who are employed by such member or participant organizations and who work on the Exchange's trading floor, such as clerks, interns, stock execution clerks and other associated persons, but who are not registered as members or participants. The Exchange proposes to increase this fee to offset the rising occupancy costs associated with operating a trading floor facility.

The Exchange also proposes to make a minor amendment to its Fee Schedule to amend the title of Section II of the Fee Schedule. Currently that section is titled Index Options Fees and the Exchange proposes to amend that section title to ''Sector Index Options Fees.'' This title would be amended in the Table of Contents as well as in Section II of the Fee Schedule. The Exchange believes that the wording ''Sector Index Options Fees'' is a more appropriate title for these products.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(4) of the Act [6] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The Exchange believes that the proposed increases in fees to the associated Trading/Administrative Booths and Market Maker Trading Space, Floor Facility and Trading Floor Personnel fees are reasonable and the revenue will assist the Exchange in defraying the occupancy costs of maintaining the floor facility for its members. The Specialist Post fee should not result in a fee increase for specialists. The Exchange believes that because specialists pay significantly more total transaction fees on a monthly basis than similar fees assessed on Register Options Traders and floor brokers, the proposed fees are reasonable. Finally, the Exchange believes that the amendment to the title of Section II is a proper title to identify fees in the Fee Schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [7] and paragraph (f)(2) of Rule 19b–4 [8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2009–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2009–39. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2009–39 and should be submitted on or before May 28, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–10524 Filed 5–6–09; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review Under Executive Order 12372

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 22 existing Small Business Development Centers (SBDCs) for refunding on October 1, 2009, subject to the availability of funds. Nine states do not participate in the EO 12372 process; therefore, their addresses are not included. A short description of the SBDC program follows in the **SUPPLEMENTARY INFORMATION** below.

The SBA is publishing this notice at least 90 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

ADDRESSES:

ADDRESSES OF RELEVANT SBDC STATE DIRECTORS

Mr. Al Salgado, Region Director, Univ. of Texas at San Antonio, 501 West Durango Blvd., San Antonio, TX 78207, (210) 458–2450.

Mr. Clinton Tymes, State Director, University of Delaware, One Innovation Way, Suite 301, Newark, DE 19711, (302) 831-2747.

Mr. Michael Young, Region Director, University of Houston, 2302 Fannin, Suite 200, Houston, TX 77002, (713) 752–8425.

Ms. Liz Klimback, Region Director, Dallas Community College, 1402 Corinth Street, Dallas, TX 75212, (214) 860–5835.

Mr. Craig Bean, Region Director, Texas Tech University, 2579 South Loop 289, Suite 114, Lubbock, TX 79423–1637, (806) 745–3973.

Mr. Max Summers, State Director, University of Missouri, 1205 University Avenue, Suite 300, Columbia, MO 65211, (573) 882–1348.

Ms. Lenae Quillen-Blume, State Director, Vermont Technical College, P.O. Box 188, Randolph Center, VT 05061–0188, (802) 728–9101.

Ms. M.E. Gamble, State Director, West Virginia Development Office, Capitol Complex, Building 6, Room 652, Charleston, WV 25301, (304) 558–2960.

Ms. Carmen Marti, SBDC Director, Inter American University of Puerto Rico, Ponce de Leon Avenue, #416, Edificio Union Plaza, Seventh Floor, Hato Rey, PR 00918, (787) 763–6811.

Ms. Becky Naugle, State Director, University of Kentucky, 225 Gatton College of Business Economics, Lexington, KY 40506–0034, (859) 257–7668.

Ms. Rene Sprow, State Director, Univ. of Maryland @ College Park, 7100 Baltimore Avenue, Suite 401, Baltimore, MD 20742–1815, (301) 403–8300.

Ms. Leonor Dottin, SBDC Director, University of the Virgin Islands, 8000 Nisky Center, Suite 720, St. Thomas, USVI 00802–5804, (340) 776–3206.

Mr. Jim Heckman, State Director, Iowa State University, 340 Gerdin Business Building, Ames, IA 50011–1350, (515) 294–2037.

FOR FURTHER INFORMATION CONTACT: Antonio Doss, Associate Administrator for SBDCs, U.S. Small Business Administration, 409 Third Street, SW., Sixth Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with SBA, the general management and oversight of SBA, and a state plan initially approved by the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) increase economic growth;

(c) assist more small businesses; and

(d) broaden the delivery system to more small businesses.

SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) Locate service centers so that they are as accessible as possible to small businesses;

(b) Open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) Develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) Maintain lists of private consultants at each service center.

Dated: April 14, 2009.

Antonio Doss,

Associate Administrator for Small Business Development Centers.

[FR Doc. E9–10625 Filed 5–6–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 6607]

Culturally Significant Objects Imported for Exhibition Determinations: ''In and Out of Amsterdam: Travels in Conceptual Art, 1960–1976''

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 ''In and Out of Amsterdam: Travels in Conceptual Art, 1960–1976,'' 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 Museum of Modern Art, New York, NY, from on or about July 19, 2009, until on or about October 5, 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 30, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–10646 Filed 5–6–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6606]

Culturally Significant Objects Imported for Exhibition Determinations: ''Projects 90: Song Dong''

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 installation ''Projects 90: Song Dong,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the installation at the Museum of Modern Art, New York, NY, from on or about June 23, 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 24, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9–10639 Filed 5–6–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket ID. FMCSA–2009–0054]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 17 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective May 7, 2009. The exemptions expire on May 9, 2011.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted 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 19476). This information is also available at *http://Docketsinfo.dot.gov.*

Background

On March 20, 2009, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (74 FR 11988). That notice listed 17 applicants' case histories. The 17 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 17 applications on their merits and made a determination to grant exemptions to all of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 17 exemption applicants listed in this notice are in this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, prosthesis, retinal lesion, corneal scar, and loss of vision due to trauma. In most cases, their eye conditions were not recently developed. All but 7 of the applicants were either born with their vision impairments or have had them since childhood. The 7 individuals who sustained their vision conditions as adults have had them for periods ranging from 5 to 26 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 17 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 38 years. In the past 3 years, four of the drivers had convictions for traffic violations and none of the drivers were involved in crashes.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the March 20, 2009 notice (74 FR 11988).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at docket number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (*See* 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (*See* Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 17 applicants, four of the applicants had traffic violations for speeding and none of the applicants were involved in crashes. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 17 applicants listed in the notice of March 20, 2009 (74 FR 11988).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will

impose requirements on the 17 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received two comments in this proceeding. The comments were considered and discussed below.

The two comments were submitted by the same anonymous individual who is of the opinion that the current Federal Vision standard should be changed and updated to relax the field of vision requirement. He also states that FMCSA has facts from the current Federal vision program and this information should be released.

In response to the these comments, Congress established a Medical Review Board (MRB) to provide FMCSA with advice and recommendations on medical standards and guidelines for the physical qualifications of CMV drivers [49 U.S.C. 31149(a)]. The Agency is currently evaluating the MRB's recommendations regarding the current vision standard; the opinions of medical research panels; and evidence reports related to vision.

Conclusion

Based upon its evaluation of the 17 exemption applications, FMCSA exempts, Dan B. Clark, Mark A. Cruz, Terry J. Dare, Frank A. DeWitt, Kenneth E. Flack, Jr., Maylin E. Frickey, Vincent E. Hardin, Larry M. Hawkins, Ronald R. Hunt, Michael E. Lafferty, Michael A. Mitchell, Eric E. Myers, Travis W. Neiwert, Michael G. Trueblood, Donald A. Uplinger, II., Steven M. Vujicic, and Joseph Watkins from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on May 1, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9–10672 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009–0044]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel BELVEDERE BLUE.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0044 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before June 8, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0044. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BELVEDERE BLUE is:

Intended Use: ''sightseeing excursion.''

Geographic Region: ''New York, Connecticut, Maine, Massachusetts, New Jersey, Rhode Island, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida''.

Privacy Act

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

Dated: April 30, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–10685 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that an Information Collection Request (ICR) in support of the New Car Assessment Program has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on March 9, 2009 74 FR 44, pages 10122 and 10123, or U.S. DOT Docket Number NHTSA–2009–0032.

DATES: Comments must be submitted on or before June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Johanna Lowrie, U.S. Department of Transportation, NHTSA, Room W43–410, 1200 New Jersey Ave., SE., Washington, DC 20590. Ms. Lowrie's telephone number is (202) 366–5269. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Vehicle Information for the General Public.

OMB Number: 2127–0629.

Type of Request: Regular.

Abstract: NHTSA's mission is to save lives, prevent injury, and reduce motor vehicle crashes. Providing consumer information on vehicle safety is an important means of improving vehicle safety through market forces. NHTSA provides consumers with vehicle safety information such as front and side crash results, rollover propensity, and the availability of a wide array of safety features provided on each vehicle model. NHTSA also uses this safety feature information when responding to public inquiries and analyzing rulemaking petitions which ask the agency to mandate certain safety features.

The agency has attempted to coordinate and reduce the reporting burden associated with this information collection. Another information collection obtains data related to motor vehicle compliance with the agency's Federal motor vehicle safety standards. Although the consumer information collection data is distinct and unique from the compliance data, respondents to both collections are the same. Consequently, the consumer information collection is closely coordinated with the compliance collection to enable responders to assemble the data most efficiently. The burden is further made easier by sending electronic files to the respondents in which the data is entered and electronically returned to the agency.

The consumer information collected is used on the agency's *http://www.safercar.gov* Web site, in the ''Buying a Safer Car'' and ''Buying a Safer Car for Child Passengers'' brochures, in other consumer publications, as well as for internal agency analyses and responses to consumer inquiries.

Affected Public: Manufacturers that sell motor vehicles in the United States under 10,000 lbs of Gross Vehicle Weight Rating.

Estimated Total Annual Burden: 924 hours.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: NHTSA Desk Officer.

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 estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on May 1, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E9–10596 Filed 5–6–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on November 18, 2008 (73 FR 68495).

DATES: Comments must be submitted on or before June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Rush, the National Highway Traffic Safety Administration, Office of Rulemaking (NVS–112), (202) 366–4583, 1200 New Jersey Avenue, SE., West Building, Room W43–417, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Appendix A–1 of FMVSS No. 208 Phase-in Reporting Requirements.

OMB Number: 2127–NEW.

Type of Request: New collection.

Abstract: 49 U.S.C. 30111 authorizes the issuance of FMVSSs and regulations. The agency, in prescribing a FMVSS or regulation, considers available relevant motor vehicle safety data, and consults with other agencies, as it deems appropriate. Further, the statute mandates that in issuing any FMVSS or regulation, the agency considers whether the standard or regulation is ''reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed,'' and whether such a standard will contribute to carrying out the purpose of the Act. The Secretary is authorized to invoke such rules and regulations as deemed necessary to carry out these requirements. Using this authority, the agency issued FMVSS No. 208, ''Occupant crash protection,'' to aid the agency in achieving many of its safety goals. This notice requests comments on the collection of information for the phase-in reporting

requirements related to the implementation of Appendix A–1 of this standard.

Affected Public: Businesses, individuals, households, federal government and state, local, or tribal government.

Estimated Total Annual Burden: 22 hours (22 affected manufacturers x 1 hour).

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

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 estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Issued on: May 1, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E9–10598 Filed 5–6–09; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35226]

Buckingham Branch Railroad Company—Change in Operator Exemption—Rail Line in Nottoway, Lunenburg, Charlotte and Mecklenberg Counties, VA

Buckingham Branch Railroad Company (BB), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to change operators from Virginia Southern Railroad Division, Northern Carolina & Virginia Railroad, Inc. (NCVA) to BB over 56.9 miles of rail line (the Keysville Line) owned by Norfolk Southern Railway Company (NSR). The line extends between milepost F84.8, near Burkeville, and milepost F65.8, near Keysville, and between milepost D0.0, near Keysville, and milepost D37.9, near Clarksville, in Nottoway, Lunenburg, Charlotte and Mecklenberg Counties, VA.

NSR and BB have reached an agreement under which BB will lease and operate the Keysville Line. BB will accept transfer and/or assignment of NCVA's common carrier obligations.

BB certifies that its projected annual revenue as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. However, because its projected annual revenues will exceed $5 million, BB also certifies that it has complied with the notice requirements of 49 CFR 1150.42(e).

The transaction is expected to be consummated on or after May 23, 2009, 60 days after BB's certification of the notice requirements of section 1150.42(e).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction. Petitions for stay must be filed no later than May 15, 2009 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law No. 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term ''solid waste'' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35226, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Keith G. O'Brien, Baker and Miller PLLC, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: May 4, 2009.

By the Board,

Rachel D. Campbell,

Director, Office of Proceedings

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–10550 Filed 5–6–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 29, 2009.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, and 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before June 8, 2009 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0817.

Type of Review: Extension.

Title: EE–28–78 (Final) Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans.

Description: Internal Revenue Code section 6104 requires applications for tax exempt status, annual reports of private foundations, and certain portions of returns to be open for public inspection. Some information may be withheld from disclosure. IRS needs the information to comply with requests for public inspection of the above-named documents.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 8,538 hours.

OMB Number: 1545–0957.

Type of Review: Extension.

Form: 8508.

Title: Request for Waiver From Filing Information Returns; Electronically/Magnetically (Forms W–2, W–2G, 1042–S, 1098 Series, 1099 Series, 5498 Series, and 8027.

Description: Certain filers of information returns are required by law to file on magnetic media. In some instances, waivers from this requirement are necessary and justified. Form 8508 is submitted by the filer and provides information on which IRS will base its waiver determination.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 750 hours.

OMB Number: 1545–0205.

Type of Review: Revision.

Form: 5452.

Title: Corporate Report of Nondividend Distributions.

Description: Form 5452 is used by corporations to report their nontaxable distributions as required by IRC 6042(d)(2). The information is used by IRS to verify that the distributions are nontaxable as claimed.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 57,885 hours.

Clearance Officer: R. Joseph Durbala, (202) 622–3634, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Shagufta Ahmed, (202) 395–7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9–10606 Filed 5–6–09; 8:45 am]

BILLING CODE 4810–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of an open meeting.

SUMMARY: This document contains a correction to a notice of open meeting of the Taxpayer Advocacy Panel Joint Committee, which was published in the **Federal Register** on Tuesday, March 24, 2009 (74 FR 12461). This notice related to the taxpayer advocacy panel's solicitation of public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Susan Gilbert at 1–888–912–1227, or 404–338–7185.

SUPPLEMENTARY INFORMATION:

Background

The notice of an open meeting that is the subject of this correction is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C App. (1988).

Need for Correction

As published, the notice of an open meeting of the Taxpayer Advocacy Panel Joint Committee contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the open meeting of the Taxpayer Advocacy Panel Joint Committee, which was the subject of FR Doc. E9–6371, is corrected as follows:

On page 12461, column 2, under the caption ''**DATES:**'', second line, the language ''Wednesday, May 20, 2009.'' is corrected to read ''Wednesday, May 27, 2009.''.

On page 12461, column 2, under the caption ''**SUPPLEMENTARY INFORMATION:**'', line 7 the language ''held Wednesday, May 20, 2009, at 3'', is corrected to read ''held Wednesday, May 27, 2009, at 3''.

LaNita Van Dyke,

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

[FR Doc. E9–10665 Filed 5–6–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

First Bank of ID, FSB, Ketchum, ID; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for First Bank of Idaho, FSB, Ketchum, Idaho (OTS No. 17496).

Dated: April 28, 2009.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. E9–10331 Filed 5–6–09; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of amendment to system of records.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records currently entitled ''Education Debt Reduction Program-VA'' (115VA10) as set forth in the **Federal Register** 67 FR 64449. VA is amending the system of records by revising the Routine Uses of Records Maintained in the System Including Categories of Users and the Purpose of Such Uses. VA is republishing the system notice in its entirety.

DATES: Comments on the amendment of this system of records must be received no later than June 8, 2009. If no public comment is received, the amended system will become effective June 8, 2009.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; telephone (704) 245–2492.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed System of Records

The Education Debt Reduction Program (EDRP) allows VA to provide education debt reduction payments to employees with qualifying loans who occupy certain health care positions for which recruitment and retention of qualified personnel is difficult. The specific health care professions that are covered by the EDRP include: physician, dentist, podiatrist, licensed pharmacist, licensed practical/vocational nurse, expanded-function dental auxiliary, registered nurse, certified registered nurse anesthetist, physician assistant, optometrist, physical therapist, occupational therapist, certified respiratory therapy technician, and registered respiratory therapist. The purpose of the program is to help VA meet its needs for qualified health care staff.

The Education Debt Reduction Program-VA (115VA10) system of records contains personal identification information related to the application

material, to education loan verification documentation, to award processes, to employment status, and to service periods covered by an award such as name, address, social security number, employing facility name, job title, grade, education level, education debt reduction payment amounts, service periods covered by education debt reduction payments, name and address of the lending institution, original loan amount, current loan amount, and loan payment amount. It also contains individual information about applicants who have been denied awards and award recipients who have been terminated from program participation. Additionally, it may contain information about why an applicant declined to accept an award. Since applicants typically are denied awards because they do not meet the eligibility requirements to participate in the program, the specific nature of an applicant's ineligibility would be another element of information contained in the system of records. The information in this system of records is maintained in electronic and hard copy format and is periodically updated through recurring reports provided by local VA facilities about the progress of their program participants. This information is necessary to effectively administer the educational assistance program. It is used to determine and document an individual applicant's initial eligibility for education debt reduction awards; calculate the payment amounts and related service periods for award recipients; ensure that award amounts are consistent with applicable law, regulations and policy; monitor the amount of principal and interest that a participant paid to reduce the balance on a qualifying loan during each service period covered by the award; monitor the employment status of award recipients during their service periods; and evaluate and report program results and effectiveness. Any information in this system may be used by local VA supervisory officials and program coordinators to ensure that it is accurate and that award recipients are in compliance with the terms for participating in the program. Data about individual program participants may change (*e.g.,* changes in employment status), and that could impact certain terms of their awards such as the amounts of the education debt reduction payments and/or the beginning and ending dates of their service periods. Data changes may also impact assessments of the effectiveness of the educational assistance program. Accordingly, local supervisory officials and program coordinators must periodically review individual data in the system of records to ensure its accuracy. There are no debts to recover since each award payment is made at the conclusion of a service period. An individual who leaves before completing a service period is eligible to receive a pro-rata share of the payment for an entire service period based on the amount of time actually served in paid status during the service period.

II. Compatibility of the Proposed Routine Uses

The Report of Intent to Amend a System on Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Routine use 11 was added for the VA to disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

Routine Use 12 was added to disclose relevant information that may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such service as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

Routine Use 13 was added for the VA to disclose on its own initiative any information in the system, except the names and home addresses of veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of the law whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. VA may also disclose on its own initiative the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, or order issued pursuant thereto.

Routine use 14 was added to disclose information to other Federal agencies that may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

Routine use 15 was added so that the VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

Approved: April 21, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

115VA10

SYSTEM NAME:

Education Debt Reduction Program-VA.

SYSTEM LOCATION:

Records will be maintained at the Health Care Staff Development and Retention Office (HCSDRO/10A2D), Veterans Health Administration, Department of Veterans Affairs (VA), 1555 Poydras Street, Suite 1971, New Orleans, Louisiana 70112; the Austin Automation Center, Department of Veterans Affairs, 1615 East Woodward Street, Austin, Texas 78772; and the VA health care facilities and VISN offices where scholarship recipients are employed. Address locations for VA health care facilities are listed in VA Appendix 1 of the Biennial Publication of Privacy Act Issuances. Complete records will be maintained only at the HCSDRO address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

VA employees who apply for and are granted or denied educational assistance awards under the provisions of the VA Education Debt Reduction Program (EDRP) serving under an appointment under Title 38 U.S.C., Section 7402(b) in a position for which retention of qualified healthcare personnel is difficult.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) in this system may include: Personal identification information related to the application material, award processes, employment, and EDRP service periods such as (1) name, (2) employing facility number, (3) telephone number(s), (4) social security number, (5) debt reduction payment amounts, (6) dates of service periods, (7) name and address of the lending institution, (8) academic degree obtained for which EDRP funding is requested, (9) name and address of academic institution, (10) original amount of loan, and (11) current loan balance. Most of this information is contained on the application for an EDRP award including the applicant's full name, employing facility number, home and work telephone numbers, social security number, job title, degree obtained for which funding is requested, name and address of the academic institution, and the amount and number of debt reduction payments requested. The EDRP Loan Verification Form contains the candidate's name and social security number, name and address of the lending institution, original loan amount, current loan amount, and the purpose of the loan as stated on the loan application. The EDRP Acceptance of Conditions contains the name of a candidate approved for an award and the authorized number of debt reduction payments and their related amounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, U.S.C., Sections 501, 503, 7451, 7452, and 7431–7440.

PURPOSE(S):

The records and information may be used for determining and documenting individual applicant eligibility for debt reduction awards; determining the debt reduction payment amounts and the related service periods for award recipients; ensuring that award amounts are consistent with applicable law, regulations and policy; monitoring the employment status of scholarship recipients during their service periods; terminating an employee's participation in the program; and evaluating and reporting program results and effectiveness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 45 CFR Parts 160 and 164, *i.e.,* individually identifiable health information, and 38 U.S.C. 7332, *i.e.,* medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR Parts 160 and 164 permitting disclosure.

1. Disclosure of any information in this system that is necessary to verify authenticity of the application may be made to lending institutions and other relevant organizations or individuals.

2. Disclosure of any information in this system may be made to a Federal agency in order to determine if an applicant has any obligation under another Federal program that would render the applicant ineligible to participate in the Education Debt Reduction Program.

3. Any information in the system may be used to evaluate and report program results and effectiveness to appropriate officials including members of Congress on a routine and ad hoc basis.

4. Disclosure of information in this system may be made to a member of Congress or staff person acting for the member when the member or staff person requests the records on behalf of and at the request of that individual.

5. Disclosure may be made to the National Archives and Record Administration (NARA) and the General Services Administration (GSA) in records management inspections conducted under authority of Title 44 United States Code.

6. Disclosure of information to the Federal Labor Relations Authority (FLRA), including its General Counsel, when requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to arbitrator awards when a question of material fact is raised, in connection with matters before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

7. Disclosure may be made to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

8. Disclosure may be made to the VA-appointed representative of an employee, including all notices, determinations, decisions, or other written communications issued to the employee in connection with an examination ordered by VA under medical evaluation (formerly fitness-for-duty) examination procedures or Department-filed disability retirement procedures.

9. Disclosure may be made to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

10. Disclosure may be made to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions of the Commission as authorized by law or regulation.

11. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative

or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

12. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

13. VA may disclose on its own initiative any information in the system, except the names and home addresses of veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of the law whether civil, criminal, or regulatory in nature and whether arising by general or program statute or by regulation, rule, or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. VA may also disclose on its own initiative the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, or order issued pursuant thereto.

14. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

15. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), VA may disclose records from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, electronic media and computer printouts.

RETRIEVABILITY:

Records are retrieved by use of the award number or an equivalent participant account number assigned by HCSDRO, Social Security Number and the name of the individual.

SAFEGUARDS:

Access to the basic file in HCSDRO is restricted to authorized VA employees and vendors. Access to the office spaces where electronic media is maintained within HCSDRO is further restricted to specifically authorized employees and is protected by contracted building security services. Records (typically computer printouts) at HCSDRO will be kept in locked files and made available only to authorized personnel on a need-to-know basis. During non-working hours the file is locked and the building is protected by contracted building security services. Records stored on electronic media are maintained on a VA-approved and managed, password-protected, secure local area network (LAN) located within HCSDRO office spaces and safeguarded as described above. Records stored on electronic media at Veterans Integrated Service Network (VISN) Offices, VA health care facilities and the Austin Automation Center (AAC) in Austin, Texas, are provided equivalent safeguards subject to local policies mandating protection of information subject to federal safeguards.

RETENTION AND DISPOSAL:

Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Health Care Staff Development and Retention Office (10A2D), Veterans Health Administration, Department of Veterans Affairs, 1555 Poydras Street, Suite 1971, New Orleans, Louisiana 70112.

NOTIFICATION PROCEDURE:

Any individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such records, should submit a written request or apply in person to the Director, Health Care Staff Development and Retention Office, Veterans Health Administration, Department of Veterans Affairs, 1555 Poydras Street, Suite 1971, New Orleans, Louisiana 70112.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of VA records in this system may write, call or visit the Director, Health Care Staff Development and Retention Office (10A2D), Veterans Health Administration, Department of Veterans Affairs, 1555 Poydras Street, Suite 1971, New Orleans, Louisiana 70112. The telephone number is (504) 589–5267.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Information contained in the records is obtained from the individual, references given in application material, educational institutions, VA medical facilities, the VA AAC, other Federal agencies, State agencies and consumer reporting agencies.

[FR Doc. E9–10626 Filed 5–6–09; 8:45 am]

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Federal Register

Thursday,
May 7, 2009

Part II

Department of the Treasury

Internal Revenue Service

26 CFR Parts 1, 20, and 25

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests; Final Rule and Proposed Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25

[TD 9448]

RIN 1545–BH96; RIN 1545–BI56

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations relating to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests. These regulations will affect the valuation of inter vivos and testamentary transfers of interests dependent on one or more measuring lives. These regulations are necessary because section 7520(c)(3) directs the Secretary to update the actuarial tables to reflect the most recent mortality experience available. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject elsewhere in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on May 1, 2009.

Applicability Date: These regulations apply on May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Mayer R. Samuels, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the regulations revising certain tables used for the valuation of partial interests in property under section 7520 of the Internal Revenue Code of 1986 (Code) to reflect the most recent mortality experience available.

In General

Section 7520, effective for transfers for which the valuation date is after April 30, 1989, provides generally that the value of an annuity, an interest for life or a term of years, and a remainder or reversionary interest is to be determined under tables published by the Secretary by using an interest rate (rounded to the nearest two-tenths of one percent) equal to 120 percent of the Federal midterm rate in effect under section 1274(d)(1) for the month in which the valuation date falls. Section 7520(c)(3) directed the Secretary to issue tables not later than December 31, 1989, utilizing the then most recent mortality experience. Thereafter, the Secretary is directed to revise these tables not less frequently than once each 10 years to take into account the most recent mortality experience available as of the time of the revision.

These temporary regulations, REG–107845–08, incorporate revised Table S (Single Life Remainder Factors) and Table U(1) (Unitrust Single Life Remainder Factors), effective for transfers for which the valuation date is on or after May 1, 2009, based on data compiled from the 2000 census as set forth in Life Table 2000CM, and make conforming amendments to various sections to reflect the revised tables. At the same time, in the portions of these regulations that are final regulations, REG–105643–09, the current tables, effective for transfers for which the valuation date is after April 30, 1999, and before May 1, 2009, are moved to sections containing actuarial material for historical reference. Table B, Table D, Tables F(4.2) through F(14.0), Table J, and Table K, which are not based on mortality experience, are not changed. Internal Revenue Service Publications 1457 ''Actuarial Valuations Version 3A'' (forthcoming 2009), 1458 ''Actuarial Valuations Version 3B'' (forthcoming 2009), and 1459 ''Actuarial Valuations Version 3C'' (forthcoming 2009) will contain a complete set of actuarial tables that include factors not contained in the temporary regulations (for example, annuity and life interest factors). These publications will be available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov.*

The following chart summarizes the applicable interest rates and the citations to textual materials and tables for the various periods covered under the current regulations:

CROSS REFERENCE TO REGULATION SECTIONS

Valuation period	Interest rate	Regulation section	Table
Section 642:			
Valuation, in general		1.642(c)–6.	
before 01/01/52	4%	1.642(c)–6A(a).	
01/01/52–12/31/70	3.5%	1.642(c)–6A(b).	
01/01/71–11/30/83	6%	1.642(c)–6A(c).	
12/01/83–04/30/89	10%	1.642(c)–6A(d)	Table G.
05/01/89–04/30/99	§ 7520	1.642(c)–6A(e)	Table S (5/1/89–4/30/99).
05/01/99–04/30/09	§ 7520	1.642(c)–6A(f)	Table S (5/1/99–04/30/09).
on or after 05/01/09	§ 7520	1.642(c)–6T(e)	Table S (on or after 05/01/09).
Section 664:			
Valuation, in general		1.664–4.	
before 01/01/52	4%	1.664–4A(a).	
01/01/52–12/31/70	3.5%	1.664–4A(b).	
01/01/71–11/30/83	6%	1.664–4A(c).	
12/01/83–04/30/89	10%	1.664–4A(d)	Table E, Table F(1).
05/01/89–04/30/99	§ 7520	1.664–4A(e)	Table U(1) (5/1/89–4/30/99).
05/01/99–04/30/09	§ 7520	1.664–4A(f)	Table U(1) (5/1/99–04/30/09).
on or after 05/01/09	§ 7520	1.664–4T(e)	Table U(1) (on or after 05/01/09).
		1.664–4(e)	Table D and Tables F(4.2)–F (14.0).
Section 2031:			
Valuation, in general		20.2031–7.	
before 01/01/52	4%	20.2031–7A(a).	
01/01/52–12/31/70	3.5%	20.2031–7A(b).	
01/01/71–11/30/83	6%	20.2031–7A(c).	
12/01/83–04/30/89	10%	20.2031–7A(d)	Table A, Table B, Table LN.

CROSS REFERENCE TO REGULATION SECTIONS—Continued

Valuation period	Interest rate	Regulation section	Table
05/01/89–04/30/99	§ 7520	20.2031–7A(e)	Table S (5/1/89–4/30/99) and Life Table 80CNSMT.
05/01/99–04/30/09	§ 7520	20.2031–7A(f)	Table S (5/1/99–05/01/09) and Life Table 90CM.
on or after 05/01/09	§ 7520	20.2031–7T(d)	Table S (on or after 05/01/09) and Life Table 2000CM.
		20.2031–7(d)	Table B, Table J, Table K.
Section 2512:			
Valuation, in general		25.2512–5.	
before 01/01/52	4%	25.2512–5A(a).	
01/01/52–12/31/70	3.5%	25.2512–5A(b).	
01/01/71–11/30/83	6%	25.2512–5A(c).	
12/01/83–04/30/89	10%	25.2512–5A(d).	
05/01/89–04/30/99	§ 7520	25.2512–5A(e).	
05/01/99–04/30/09	§ 7520	25.2512–5A(f).	
on or after 05/01/09	§ 7520	25.2512–5T(d).	

Effective Dates

These regulations are applicable in the case of annuities, interests for life or terms of years, and remainder or reversionary interests valued as of a date on or after May 1, 2009.

Transitional Rules

The regulations provide certain transitional rules intended to alleviate any adverse consequences resulting from the proposed regulatory change. For gift tax purposes, if the date of a transfer is on or after May 1, 2009, but before July 1, 2009, the donor may choose to determine the value of the gift (and/or any applicable charitable deduction) under tables based on either Life Table 90CM or Table 2000CM. Similarly, for estate tax purposes, if the decedent dies on or after May 1, 2009, but before July 1, 2009, the value of any interest (and/or any applicable charitable deduction) may be determined in the discretion of the decedent's executor under tables based on either Life Table 90CM or Table 2000CM. However, the section 7520 interest rate to be utilized is the appropriate rate for the month in which the valuation date occurs, subject to the following special rule for certain charitable transfers. Specifically, in accordance with this transitional rule and the rules contained in §§ 1.7520–2(a)(2), 20.7520–2(a)(2) and 25.7520–2(a)(2), in cases involving a charitable deduction, if the valuation date occurs on or after May 7, 2009, and before July 1, 2009, and the executor or donor elects under section 7520(a) to use the section 7520 interest rate for March 2009 or April 2009, then the mortality experience contained in 90CM must be used. If the executor or donor uses the section 7520 interest rate for May 2009 or for June 2009, then the tables based on either Table 90CM or Table 2000CM may be used. However, if the valuation date occurs after June 30, 2009, the executor or donor must use the new mortality experience contained in Table 2000CM even if the use of a prior month's interest rate is elected under section 7520(a).

In addition, for estate tax purposes, the estate of a mentally incompetent decedent may elect to value the property interest included in the gross estate either under the mortality table and interest rate in effect at the time the decedent became mentally incompetent or under the mortality table and interest rate in effect on the decedent's date of death if the decedent was under a mental incapacity that existed on May 1, 2009, and continued uninterrupted until the decedent's death, or the decedent died within 90 days after regaining competency on or after May 1, 2009.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. For applicability of the Regulatory Flexibility Act please refer to the cross-referenced notice of proposed rulemaking published elsewhere in this Federal Register. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Mayer R. Samuels, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1, 20, and 25 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.170A–12T also issued under 26 U.S.C. 170(f)(4).

Section 1.642(c)–6T also issued under 26 U.S.C. 642(c)(5).

Section 1.664–4T also issued under 26 U.S.C. 664(a).

Section 1.7520–1T also issued under 26 U.S.C. 7520(c)(2).

■ **Par. 2.** Sections 1.170A–12 is amended by revising paragraphs (b)(2) and (b)(3) and adding paragraph (f) to read as follows:

§ 1.170A–12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

* * * * *

(b)(2) and (b)(3) [Reserved]. For further guidance, see § 1.170A–12T(b)(2) and (b)(3).

* * * * *

(f) *Effective/applicability date.* This section applies to contributions made after July 31, 1969.

■ **Par. 3.** Section 1.170A–12T is added to read as follows:

§ 1.170A–12T Valuation of a remainder interest in real property for contributions made after July 31, 1969 (temporary).

(a) through (b)(1) [Reserved]. For further guidance see § 1.170A–12(a) through (b)(1).

(b)(2) *Computation of depreciation factor.* If the valuation of the remainder interest in depreciable property is dependent upon the continuation of one life, a special factor must be used. The factor determined under this paragraph (b)(2) is carried to the fifth decimal place. The special factor is to be computed on the basis of the interest rate and life contingencies prescribed in § 20.2031–7T (or for periods before May 1, 2009, § 20.2031–7A) and on the assumption that the property depreciates on a straight-line basis over its estimated useful life. For transfers for which the valuation date is on or after May 1, 2009, special factors for determining the present value of a remainder interest following one life and an example describing the computation are contained in Internal Revenue Service Publication 1459, ''Actuarial Valuations Version 3C'' (2009). This publication will be available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov.* For transfers for which the valuation date is after April 30, 1999, and before May 1, 2009, special factors for determining the present value of a remainder interest following one life and an example describing the computation are contained in Internal Revenue Service Publication 1459, ''Actuarial Values, Book Gimel,'' (7–99). For transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, special factors for determining the present value of a remainder interest following one life and an example describing the computation are contained in Internal Revenue Service Publication 1459, ''Actuarial Values, Gamma Volume,'' (8–89). These publications are no longer available for purchase from the Superintendent of Documents, United States Government Printing Office. However, they may be obtained by requesting a copy from: CC:PA:LPD:PR (IRS Publication 1459), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Otherwise, in the case of the valuation of a remainder interest following one life, the special factor may be obtained through use of the following formula:

$$\left(1+\frac{i}{2}\right)\sum_{t=0}^{n-1} v^{t+1}\left[\left(1-\frac{l_{x+t+1}}{l_x}\right)-\left(1-\frac{l_{x+t}}{l_x}\right)\right]\left(1-\frac{1}{2n}-\frac{t}{n}\right)$$

Where:

n = the estimated number of years of useful life,

i = the applicable interest rate under section 7520 of the Internal Revenue Code,

v = 1 divided by the sum of 1 plus the applicable interest rate under section 7520 of the Internal Revenue Code,

x = the age of the life tenant, and

lx = number of persons living at age x as set forth in Table 2000CM of § 20.2031–7T (or, for periods before May 1, 2009, the tables set forth under § 20.2031–7A).

(3) The following example illustrates the provisions of this paragraph

(b): Example. A, who is 62, donates to Y University a remainder interest in a personal residence, consisting of a house and land, subject to a reserved life estate in A. At the time of the gift, the land has a value of $30,000 and the house has a value of $100,000 with an estimated useful life of 45 years, at the end of which period the value of the house is expected to be $20,000. The portion of the property considered to be depreciable is $80,000 (the value of the house ($100,000) less its expected value at the end of 45 years ($20,000)). The portion of the property considered to be nondepreciable is $50,000 (the value of the land at the time of the gift ($30,000) plus the expected value of the house at the end of 45 years ($20,000)). At the time of the gift, the interest rate prescribed under section 7520 is 8.4 percent. Based on an interest rate of 8.4 percent, the remainder factor for $1.00 prescribed in § 20.2031–7T(d) for a person age 62 is 0.26534. The value of the nondepreciable remainder interest is $13,267.00 (0.26534 times $50,000). The value of the depreciable remainder interest is $15,053.60 (0.18817, computed under the formula described in paragraph (b)(2) of this section, times $80,000). Therefore, the value of the remainder interest is $28,320.60.

(c) through (e) [Reserved]. For further guidance see § 1.170A–12(c) through (e).

(f) *Effective/applicability date.* Paragraphs (b)(2) and (b)(3) apply to all contributions made on or after May 1, 2009.

(g) *Expiration date.* Paragraphs (b)(2) and (b)(3) expire on or before May 1, 2012.

■ **Par. 4.** Section 1.642(c)–6 is amended as follows:

■ 1. Paragraph (d) is removed.

■ 2. Paragraph (e) is redesignated as paragraph (f) of § 1.642(c)–6A.

■ 3. New paragraphs (d) and (e) are added.

■ 4. Paragraph (f) is revised.

The revisions and addition read as follows:

§ 1.642(c)–6 Valuation of a remainder interest in property transferred to a pooled income fund.

* * * * *

(d) and (e) [Reserved]. For further guidance, see § 1.642(c)–6T(d) and (e).

(f) *Effective/applicability dates.* This section applies after April 30, 1999, and before May 1, 2009.

■ **Par. 5.** Section 1.642(c)–6T is added to read as follows:

§ 1.642(c)–6T Valuation of a remainder interest in property transferred to a pooled income fund (temporary).

(a) through (c) [Reserved]. For further guidance, see § 1.642(c)–6(a) through (c).

(d) *Valuation.* The present value of the remainder interest in property transferred to a pooled income fund on or after May 1, 2009, is determined under paragraph (e) of this section. The present value of the remainder interest in property transferred to a pooled income fund for which the valuation date is before May 1, 2009, is determined under the following sections:

Valuation dates		Applicable regulations
After	Before	
	01–01–52	1.642(c)–6A(a).
12–31–51	01–01–71	1.642(c)–6A(b).

Valuation dates		Applicable regulations
After	Before	
12–31–70	12–01–83	1.642(c)–6A(c).
11–30–83	05–01–89	1.642(c)–6A(d).
04–30–89	05–01–99	1.642(c)–6A(e).
04–30–99	05–01–09	1.642(c)–6A(f).

(e) *Present value of the remainder interest in the case of transfers to pooled income funds for which the valuation date is on or after* May 1, 2009—(1) *In general.* In the case of transfers to pooled income funds for which the valuation date is on or after May 1, 2009, the present value of a remainder interest is determined under this section. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). The present value of a remainder interest that is dependent on the termination of the life of one individual is computed by the use of Table S in paragraph (e)(6) of this section. For purposes of the computations under this section, the age of an individual is the age at the individual's nearest birthday.

(2) *Transitional rules for valuation of transfers to pooled income funds.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 2009, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died on or after May 1, 2009, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency on or after May 1, 2009, the present value of a remainder interest is determined as if the valuation date with respect to the decedent's gross estate is either before or after May 1, 2009, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a pooled income fund for which the valuation date is on or after May 1, 2009, and before July 1, 2009, the present value of the remainder interest under this section is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(6) of this section or § 1.642(c)–6A(f)(6), at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (e)(2)(i) and (e)(2)(ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(6) of this section or § 1.642(c)–6A(f)(6), the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Present value of a remainder interest.* The present value of a remainder interest in property transferred to a pooled income fund is computed on the basis of—

(i) Life contingencies determined from the values of *lx* that are set forth in Table 2000CM in § 20.2031–7T(d)(7) (see § 20.2031–7A for certain prior periods); and

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. For purposes of this paragraph (e), the yearly rate of return of a pooled income fund is determined as provided in § 1.642(c)–6(c) unless the highest rate of return is deemed to be the rate described in paragraph (e)(4) of this section for funds in existence less than 3 taxable years. For purposes of this paragraph (e)(3)(ii), the first taxable year of a pooled income fund is considered a taxable year even though the taxable year consists of less than 12 months. However, appropriate adjustments must be made to annualize the rate of return earned by the fund for that period. Where it appears from the facts and circumstances that the highest yearly rate of return of the fund for the 3 taxable years immediately preceding the taxable year in which the transfer of property is made has been purposely manipulated to be substantially less than the rate of return that would otherwise be reasonably anticipated with the purpose of obtaining an excessive charitable deduction, that rate of return may not be used. In that case, the highest yearly rate of return of the fund is determined by treating the fund as a pooled income fund that has been in existence for less than 3 preceding taxable years.

(4) *Pooled income funds in existence less than 3 taxable years.* If a pooled income fund has been in existence less than 3 taxable years immediately preceding the taxable year in which the transfer is made to the fund and the transfer to the fund is made after April 30, 1989, the highest rate of return is deemed to be the interest rate (rounded to the nearest two-tenths of one percent) that is 1 percent less than the highest annual average of the monthly section 7520 rates for the 3 calendar years immediately preceding the calendar year in which the transfer to the pooled income fund is made. The deemed rate of return for transfers to new pooled income funds is recomputed each calendar year using the monthly section 7520 rates for the 3-year period immediately preceding the calendar year in which each transfer to the fund is made until the fund has been in existence for 3 taxable years and can compute its highest rate of return for the 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made in accordance with the rules set forth in the first sentence of paragraph (e)(3)(ii) of this section.

(5) *Computation of value of remainder interest.* (i) The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor from Table S in paragraph (e)(6) of this section under the appropriate yearly rate of return opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based (See § 1.642(c)–6A for certain prior periods). The tables in paragraph (e)(6) of this section include factors for yearly rates of return from 0.2 to 14 percent. Many actuarial factors not contained in the tables in paragraph (e)(6) of this section are contained in Table S in Internal Revenue Service Publication 1457, ''Actuarial Valuations Version 3A'' (2009). This publication will be available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov.* For

other situations, see § 1.642(c)–6(b). If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the fair market value of the property on the valuation date by the appropriate remainder factor.

(ii) This paragraph (e)(5) may be illustrated by the following example:

Example. A, who is 54 years and 8 months, transfers $100,000 to a pooled income fund, and retains a life income interest in the property. The highest yearly rate of return earned by the fund for its 3 preceding taxable years is 9.47 percent. In Table S, the remainder factor opposite 55 years under 9.4 percent is .16192 and under 9.6 percent is .15755. The present value of the remainder interest is $16,039.00, computed as follows:

Factor at 9.4 percent for age 55	.16192
Factor at 9.6 percent for age 55	.15755
Difference	.00437

Interpolation adjustment:

$$\frac{9.47\% - 9.4\%}{0.2\%} = \frac{x}{.00437}$$

$$x = .00153$$

Factor at 9.4 percent for age 55	.16192
Less: Interpolation adjustment	.00153
Interpolated factor	.16039

Present value of remainder interest: ($100,000 × .16039) = $16,039.00.

(6) *Actuarial tables.* In the case of transfers for which the valuation date is on or after May 1, 2009, the present value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is determined by use of the following Table S:

BILLING CODE 4380–01–P

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
0	.85816	.73751	.63478	.54723	.47252	.40872	.35416	.30747	.26745	.23313
1	.85889	.73863	.63604	.54844	.47355	.40948	.35459	.30752	.26711	.23239
2	.86054	.74145	.63968	.55260	.47802	.41409	.35922	.31209	.27155	.23664
3	.86221	.74433	.64339	.55687	.48263	.41887	.36404	.31685	.27619	.24112
4	.86390	.74725	.64716	.56121	.48733	.42374	.36898	.32175	.28098	.24575
5	.86560	.75018	.65097	.56561	.49209	.42871	.37401	.32675	.28588	.25050
6	.86731	.75314	.65482	.57006	.49692	.43375	.37913	.33186	.29090	.25538
7	.86902	.75611	.65868	.57454	.50180	.43885	.38432	.33704	.29601	.26035
8	.87073	.75909	.66258	.57907	.50674	.44403	.38960	.34233	.30122	.26544
9	.87246	.76209	.66651	.58364	.51173	.44928	.39497	.34771	.30654	.27064
10	.87419	.76511	.67046	.58826	.51679	.45459	.40042	.35319	.31197	.27596
11	.87592	.76814	.67445	.59291	.52190	.45998	.40596	.35876	.31750	.28139
12	.87766	.77119	.67845	.59761	.52706	.46544	.41157	.36443	.32313	.28693
13	.87939	.77424	.68247	.60232	.53225	.47094	.41723	.37015	.32884	.29255
14	.88112	.77728	.68649	.60704	.53746	.47646	.42293	.37592	.33460	.29823
15	.88284	.78031	.69050	.61176	.54267	.48199	.42865	.38172	.34038	.30394
16	.88455	.78333	.69449	.61647	.54788	.48752	.43437	.38752	.34619	.30968
17	.88625	.78633	.69848	.62117	.55309	.49307	.44012	.39336	.35203	.31546
18	.88795	.78933	.70246	.62588	.55830	.49863	.44589	.39923	.35791	.32129
19	.88964	.79232	.70644	.63059	.56354	.50422	.45170	.40514	.36385	.32719
20	.89132	.79532	.71044	.63534	.56882	.50987	.45757	.41114	.36987	.33317
21	.89301	.79832	.71445	.64010	.57413	.51555	.46350	.41719	.37597	.33925
22	.89470	.80133	.71847	.64488	.57947	.52129	.46948	.42332	.38216	.34541
23	.89639	.80434	.72251	.64970	.58486	.52708	.47554	.42954	.38844	.35168
24	.89808	.80737	.72658	.65456	.59031	.53295	.48169	.43586	.39484	.35809
25	.89978	.81042	.73068	.65947	.59583	.53890	.48795	.44230	.40137	.36464
26	.90149	.81349	.73482	.66443	.60141	.54494	.49430	.44886	.40804	.37134
27	.90320	.81657	.73899	.66944	.60707	.55107	.50076	.45554	.41484	.37819
28	.90492	.81968	.74319	.67450	.61278	.55728	.50733	.46233	.42178	.38520
29	.90665	.82279	.74741	.67960	.61856	.56356	.51398	.46924	.42884	.39233
30	.90837	.82591	.75165	.68473	.62438	.56990	.52070	.47623	.43601	.39959
31	.91010	.82904	.75592	.68989	.63024	.57631	.52751	.48333	.44329	.40698
32	.91182	.83218	.76020	.69509	.63616	.58278	.53440	.49052	.45068	.41449
33	.91355	.83532	.76449	.70031	.64212	.58931	.54137	.49780	.45818	.42213
34	.91527	.83847	.76880	.70556	.64811	.59589	.54839	.50516	.46578	.42988

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
35	.91700	.84162	.77312	.71082	.65414	.60253	.55549	.51261	.47347	.43774
36	.91872	.84477	.77744	.71611	.66021	.60921	.56266	.52014	.48127	.44572
37	.92043	.84792	.78178	.72142	.66631	.61594	.56989	.52774	.48916	.45381
38	.92215	.85107	.78613	.72675	.67244	.62272	.57718	.53544	.49715	.46201
39	.92386	.85422	.79048	.73210	.67860	.62955	.58453	.54320	.50523	.47032
40	.92557	.85736	.79483	.73746	.68479	.63641	.59194	.55104	.51340	.47873
41	.92727	.86050	.79918	.74283	.69100	.64331	.59940	.55894	.52165	.48724
42	.92896	.86364	.80354	.74820	.69723	.65024	.60690	.56691	.52998	.49585
43	.93065	.86677	.80789	.75359	.70348	.65721	.61447	.57495	.53840	.50457
44	.93234	.86990	.81225	.75899	.70976	.66422	.62208	.58305	.54690	.51338
45	.93402	.87302	.81660	.76439	.71605	.67125	.62973	.59122	.55547	.52228
46	.93569	.87613	.82095	.76980	.72236	.67832	.63743	.59945	.56413	.53129
47	.93735	.87924	.82530	.77521	.72867	.68541	.64517	.60773	.57286	.54037
48	.93901	.88233	.82964	.78062	.73501	.69253	.65295	.61606	.58166	.54955
49	.94065	.88541	.83397	.78604	.74135	.69967	.66077	.62446	.59053	.55882
50	.94229	.88849	.83830	.79145	.74771	.70684	.66864	.63292	.59949	.56819
51	.94393	.89156	.84263	.79688	.75409	.71404	.67655	.64143	.60852	.57766
52	.94556	.89462	.84695	.80230	.76048	.72127	.68450	.65001	.61763	.58722
53	.94717	.89767	.85126	.80772	.76687	.72852	.69249	.65863	.62680	.59687
54	.94878	.90070	.85555	.81313	.77326	.73577	.70050	.66730	.63603	.60658
55	.95037	.90371	.85983	.81853	.77964	.74302	.70851	.67598	.64530	.61635
56	.95195	.90670	.86406	.82388	.78599	.75024	.71651	.68465	.65457	.62613
57	.95351	.90965	.86827	.82920	.79230	.75744	.72448	.69332	.66384	.63593
58	.95505	.91257	.87243	.83447	.79857	.76459	.73242	.70195	.67309	.64573
59	.95657	.91546	.87655	.83970	.80479	.77170	.74033	.71057	.68233	.65553
60	.95807	.91832	.88064	.84490	.81098	.77879	.74822	.71918	.69158	.66534
61	.95955	.92115	.88469	.85005	.81713	.78584	.75608	.72776	.70081	.67515
62	.96101	.92395	.88869	.85515	.82323	.79283	.76388	.73630	.71001	.68494
63	.96245	.92670	.89265	.86020	.82926	.79977	.77164	.74479	.71917	.69470
64	.96387	.92942	.89655	.86518	.83524	.80665	.77933	.75323	.72828	.70443
65	.96527	.93210	.90040	.87011	.84116	.81346	.78697	.76162	.73735	.71411
66	.96665	.93476	.90423	.87502	.84706	.82027	.79461	.77002	.74645	.72385
67	.96802	.93739	.90803	.87990	.85292	.82705	.80223	.77841	.75554	.73359
68	.96937	.93999	.91179	.88472	.85874	.83378	.80980	.78676	.76461	.74331
69	.97070	.94255	.91549	.88949	.86449	.84044	.81731	.79504	.77362	.75299
70	.97200	.94506	.91914	.89419	.87016	.84702	.82473	.80326	.78256	.76260

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
71	.97328	.94754	.92273	.89882	.87577	.85353	.83209	.81140	.79143	.77215
72	.97453	.94997	.92626	.90338	.88129	.85996	.83935	.81945	.80021	.78162
73	.97576	.95234	.92972	.90785	.88671	.86627	.84651	.82739	.80888	.79098
74	.97695	.95466	.93310	.91223	.89202	.87247	.85353	.83518	.81741	.80019
75	.97811	.95692	.93638	.91649	.89720	.87851	.86039	.84281	.82577	.80923
76	.97924	.95910	.93957	.92063	.90224	.88440	.86708	.85026	.83393	.81807
77	.98033	.96122	.94267	.92465	.90715	.89013	.87360	.85753	.84191	.82671
78	.98138	.96327	.94567	.92855	.91190	.89571	.87995	.86461	.84968	.83515
79	.98239	.96526	.94857	.93233	.91652	.90112	.88611	.87149	.85725	.84337
80	.98337	.96717	.95138	.93598	.92098	.90635	.89208	.87817	.86460	.85135
81	.98431	.96901	.95408	.93951	.92529	.91141	.89786	.88463	.87172	.85910
82	.98521	.97077	.95667	.94290	.92944	.91629	.90344	.89088	.87861	.86660
83	.98608	.97247	.95917	.94616	.93343	.92099	.90882	.89691	.88526	.87385
84	.98691	.97409	.96156	.94928	.93727	.92551	.91399	.90271	.89166	.88084
85	.98770	.97565	.96384	.95228	.94094	.92984	.91895	.90828	.89782	.88757
86	.98845	.97713	.96602	.95514	.94446	.93398	.92371	.91362	.90373	.89402
87	.98917	.97854	.96810	.95786	.94781	.93794	.92825	.91873	.90939	.90021
88	.98985	.97988	.97008	.96046	.95100	.94171	.93258	.92361	.91479	.90612
89	.99049	.98115	.97196	.96292	.95404	.94530	.93671	.92826	.91994	.91176
90	.99110	.98235	.97373	.96526	.95691	.94871	.94062	.93267	.92484	.91713
91	.99168	.98348	.97541	.96747	.95964	.95193	.94434	.93686	.92949	.92223
92	.99222	.98455	.97700	.96955	.96222	.95498	.94785	.94083	.93390	.92707
93	.99273	.98556	.97849	.97152	.96464	.95786	.95117	.94457	.93806	.93163
94	.99321	.98651	.97989	.97337	.96692	.96057	.95429	.94810	.94199	.93595
95	.99366	.98739	.98121	.97510	.96907	.96312	.95724	.95143	.94569	.94002
96	.99408	.98822	.98244	.97673	.97108	.96551	.95999	.95454	.94916	.94384
97	.99447	.98900	.98359	.97825	.97297	.96774	.96258	.95747	.95242	.94742
98	.99483	.98973	.98467	.97967	.97473	.96984	.96500	.96021	.95547	.95078
99	.99518	.99040	.98568	.98101	.97638	.97180	.96727	.96278	.95834	.95394
100	.99549	.99103	.98661	.98224	.97791	.97362	.96937	.96516	.96100	.95687
101	.99579	.99162	.98750	.98340	.97935	.97534	.97136	.96742	.96351	.95964
102	.99607	.99217	.98831	.98448	.98068	.97692	.97319	.96950	.96583	.96220
103	.99634	.99271	.98911	.98553	.98199	.97848	.97500	.97155	.96812	.96473
104	.99659	.99320	.98984	.98651	.98320	.97992	.97666	.97344	.97023	.96705
105	.99683	.99369	.99056	.98747	.98439	.98134	.97830	.97530	.97231	.96934
106	.99713	.99429	.99146	.98865	.98586	.98309	.98033	.97760	.97488	.97218
107	.99747	.99496	.99246	.98998	.98751	.98506	.98262	.98020	.97779	.97539
108	.99800	.99602	.99404	.99208	.99012	.98818	.98624	.98431	.98240	.98049
109	.99900	.99801	.99702	.99603	.99505	.99407	.99310	.99213	.99116	.99020

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	2.2%	2.4%	2.6%	2.8%	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%
0	.20365	.17830	.15648	.13767	.12144	.10741	.09528	.08476	.07564	.06772
1	.20251	.17677	.15458	.13542	.11885	.10451	.09209	.08131	.07194	.06379
2	.20656	.18060	.15817	.13877	.12197	.10740	.09476	.08376	.07420	.06586
3	.21084	.18466	.16200	.14236	.12533	.11054	.09767	.08647	.07670	.06817
4	.21527	.18888	.16600	.14613	.12887	.11385	.10076	.08935	.07938	.07066
5	.21984	.19324	.17013	.15004	.13255	.11730	.10399	.09237	.08220	.07329
6	.22454	.19773	.17440	.15408	.13636	.12089	.10736	.09553	.08515	.07605
7	.22933	.20233	.17879	.15824	.14030	.12460	.11085	.09880	.08822	.07892
8	.23425	.20705	.18330	.16254	.14436	.12844	.11447	.10221	.09142	.08193
9	.23930	.21191	.18795	.16697	.14857	.13243	.11824	.10576	.09476	.08507
10	.24446	.21689	.19273	.17153	.15292	.13655	.12214	.10945	.09824	.08835
11	.24975	.22200	.19764	.17623	.15740	.14081	.12619	.11328	.10187	.09177
12	.25515	.22724	.20268	.18107	.16202	.14521	.13037	.11724	.10563	.09533
13	.26064	.23256	.20782	.18600	.16674	.14972	.13466	.12132	.10949	.09900
14	.26620	.23796	.21303	.19101	.17154	.15430	.13903	.12547	.11344	.10273
15	.27179	.24340	.21829	.19607	.17639	.15894	.14344	.12968	.11743	.10652
16	.27742	.24887	.22358	.20117	.18128	.16361	.14790	.13391	.12145	.11034
17	.28309	.25439	.22893	.20632	.18622	.16834	.15241	.13821	.12554	.11421
18	.28881	.25997	.23434	.21154	.19123	.17314	.15699	.14258	.12969	.11815
19	.29461	.26563	.23983	.21684	.19633	.17803	.16167	.14703	.13393	.12218
20	.30050	.27139	.24543	.22226	.20156	.18304	.16646	.15161	.13829	.12633
21	.30649	.27726	.25114	.22779	.20689	.18817	.17138	.15631	.14277	.13060
22	.31259	.28323	.25697	.23344	.21235	.19342	.17642	.16114	.14739	.13500
23	.31879	.28934	.26293	.23923	.21795	.19882	.18161	.16612	.15215	.13955
24	.32515	.29559	.26904	.24519	.22372	.20440	.18699	.17128	.15710	.14429
25	.33166	.30201	.27534	.25133	.22969	.21018	.19256	.17665	.16226	.14924
26	.33833	.30861	.28182	.25767	.23586	.21616	.19835	.18224	.16764	.15440
27	.34517	.31538	.28849	.26420	.24224	.22236	.20436	.18804	.17324	.15980
28	.35217	.32233	.29535	.27093	.24882	.22877	.21058	.19407	.17907	.16542
29	.35932	.32944	.30237	.27784	.25558	.23537	.21701	.20031	.18511	.17126
30	.36661	.33670	.30956	.28492	.26253	.24216	.22362	.20674	.19135	.17730
31	.37403	.34411	.31691	.29217	.26965	.24914	.23044	.21338	.19779	.18355
32	.38160	.35167	.32442	.29960	.27697	.25631	.23745	.22022	.20445	.19002
33	.38930	.35939	.33211	.30721	.28447	.26368	.24467	.22727	.21133	.19671
34	.39713	.36724	.33993	.31497	.29213	.27123	.25207	.23451	.21839	.20360

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	2.2%	2.4%	2.6%	2.8%	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%
35	.40509	.37523	.34792	.32290	.29998	.27896	.25967	.24195	.22567	.21070
36	.41318	.38337	.35606	.33100	.30800	.28688	.26746	.24961	.23317	.21803
37	.42139	.39165	.36435	.33927	.31621	.29499	.27546	.25746	.24087	.22557
38	.42974	.40008	.37281	.34771	.32460	.30330	.28366	.26554	.24880	.23334
39	.43821	.40864	.38141	.35631	.33316	.31179	.29205	.27381	.25694	.24133
40	.44679	.41734	.39016	.36507	.34189	.32046	.30064	.28229	.26529	.24954
41	.45549	.42616	.39906	.37399	.35080	.32932	.30942	.29097	.27386	.25797
42	.46430	.43511	.40809	.38307	.35987	.33836	.31840	.29986	.28264	.26662
43	.47324	.44421	.41729	.39232	.36913	.34760	.32758	.30897	.29165	.27552
44	.48229	.45343	.42663	.40172	.37857	.35702	.33697	.31829	.30088	.28465
45	.49144	.46277	.43611	.41128	.38817	.36663	.34655	.32782	.31033	.29400
46	.50072	.47225	.44574	.42101	.39796	.37644	.35634	.33757	.32002	.30360
47	.51009	.48185	.45550	.43089	.40791	.38642	.36633	.34753	.32992	.31343
48	.51958	.49158	.46540	.44093	.41803	.39660	.37652	.35770	.34006	.32351
49	.52917	.50143	.47545	.45113	.42833	.40696	.38691	.36810	.35043	.33383
50	.53888	.51141	.48566	.46150	.43883	.41754	.39754	.37874	.36106	.34442
51	.54871	.52153	.49602	.47204	.44951	.42832	.40838	.38961	.37194	.35528
52	.55865	.53179	.50653	.48276	.46038	.43931	.41945	.40073	.38307	.36641
53	.56869	.54217	.51718	.49363	.47143	.45050	.43074	.41208	.39446	.37781
54	.57882	.55265	.52796	.50465	.48265	.46186	.44222	.42364	.40607	.38945
55	.58902	.56322	.53884	.51579	.49400	.47338	.45387	.43540	.41789	.40131
56	.59926	.57383	.54978	.52701	.50544	.48501	.46565	.44729	.42987	.41335
57	.60951	.58449	.56078	.53830	.51698	.49675	.47755	.45932	.44201	.42555
58	.61978	.59517	.57182	.54964	.52858	.50858	.48956	.47147	.45427	.43790
59	.63007	.60589	.58290	.56105	.54027	.52050	.50167	.48375	.46668	.45041
60	.64039	.61665	.59405	.57254	.55205	.53253	.51392	.49617	.47925	.46310
61	.65072	.62743	.60524	.58409	.56390	.54465	.52627	.50872	.49196	.47595
62	.66104	.63822	.61645	.59566	.57581	.55683	.53870	.52136	.50478	.48892
63	.67133	.64900	.62766	.60726	.58774	.56907	.55120	.53409	.51770	.50200
64	.68161	.65977	.63887	.61887	.59970	.58134	.56375	.54688	.53071	.51519
65	.69186	.67053	.65009	.63049	.61170	.59367	.57637	.55976	.54381	.52849
66	.70216	.68136	.66140	.64223	.62383	.60615	.58916	.57283	.55713	.54203
67	.71250	.69224	.67277	.65405	.63605	.61874	.60208	.58605	.57062	.55575
68	.72283	.70312	.68416	.66590	.64833	.63140	.61509	.59938	.58423	.56963
69	.73312	.71398	.69553	.67776	.66062	.64409	.62815	.61277	.59793	.58360
70	.74335	.72479	.70688	.68959	.67291	.65680	.64124	.62621	.61168	.59764

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	2.2%	2.4%	2.6%	2.8%	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%
71	.75353	.73556	.71819	.70141	.68519	.66951	.65434	.63968	.62549	.61176
72	.76364	.74626	.72945	.71318	.69744	.68220	.66745	.65317	.63933	.62593
73	.77365	.75686	.74061	.72487	.70962	.69484	.68051	.66662	.65315	.64009
74	.78350	.76733	.75164	.73643	.72167	.70735	.69346	.67997	.66688	.65417
75	.79318	.77761	.76249	.74781	.73355	.71971	.70625	.69318	.68048	.66813
76	.80266	.78769	.77314	.75899	.74524	.73187	.71886	.70621	.69390	.68192
77	.81194	.79756	.78358	.76997	.75672	.74382	.73127	.71904	.70713	.69553
78	.82100	.80722	.79380	.78072	.76798	.75556	.74346	.73166	.72016	.70894
79	.82984	.81664	.80378	.79124	.77900	.76706	.75542	.74405	.73296	.72213
80	.83843	.82582	.81351	.80149	.78976	.77830	.76711	.75618	.74550	.73507
81	.84678	.83474	.82298	.81148	.80025	.78927	.77853	.76803	.75777	.74773
82	.85487	.84339	.83217	.82119	.81045	.79994	.78966	.77959	.76974	.76009
83	.86269	.85177	.84107	.83060	.82035	.81030	.80047	.79083	.78139	.77214
84	.87024	.85986	.84968	.83970	.82993	.82035	.81095	.80174	.79271	.78385
85	.87751	.86765	.85798	.84849	.83919	.83005	.82110	.81230	.80368	.79521
86	.88450	.87515	.86597	.85696	.84811	.83942	.83089	.82251	.81428	.80619
87	.89119	.88234	.87363	.86508	.85668	.84843	.84031	.83234	.82450	.81679
88	.89760	.88922	.88099	.87289	.86492	.85708	.84938	.84180	.83434	.82700
89	.90372	.89580	.88801	.88034	.87280	.86537	.85806	.85087	.84378	.83681
90	.90954	.90207	.89471	.88746	.88032	.87329	.86637	.85954	.85282	.84620
91	.91508	.90803	.90109	.89424	.88750	.88085	.87429	.86783	.86146	.85518
92	.92033	.91369	.90714	.90068	.89432	.88803	.88184	.87572	.86969	.86374
93	.92530	.91904	.91287	.90678	.90078	.89484	.88899	.88321	.87751	.87188
94	.92999	.92411	.91830	.91256	.90690	.90130	.89578	.89032	.88493	.87961
95	.93442	.92889	.92342	.91802	.91269	.90741	.90220	.89706	.89197	.88694
96	.93858	.93338	.92824	.92316	.91813	.91316	.90825	.90340	.89859	.89385
97	.94248	.93759	.93276	.92798	.92325	.91857	.91395	.90937	.90484	.90036
98	.94614	.94155	.93701	.93252	.92807	.92367	.91931	.91500	.91073	.90650
99	.94959	.94528	.94101	.93679	.93260	.92846	.92436	.92030	.91628	.91229
100	.95278	.94874	.94473	.94075	.93682	.93292	.92906	.92523	.92144	.91769
101	.95581	.95201	.94824	.94451	.94081	.93715	.93352	.92992	.92635	.92281
102	.95860	.95503	.95149	.94798	.94450	.94105	.93763	.93424	.93088	.92754
103	.96136	.95802	.95470	.95142	.94816	.94492	.94171	.93853	.93538	.93224
104	.96390	.96077	.95766	.95458	.95152	.94848	.94547	.94248	.93951	.93657
105	.96640	.96347	.96057	.95769	.95483	.95199	.94917	.94637	.94359	.94083
106	.96950	.96684	.96420	.96157	.95896	.95636	.95379	.95123	.94868	.94616
107	.97301	.97064	.96829	.96595	.96362	.96131	.95901	.95672	.95445	.95219
108	.97859	.97670	.97482	.97295	.97109	.96923	.96739	.96555	.96373	.96191
109	.98924	.98828	.98733	.98638	.98544	.98450	.98356	.98263	.98170	.98077

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06083	.05483	.04959	.04501	.04101	.03749	.03441	.03170	.02931	.02721
1	.05668	.05049	.04507	.04034	.03618	.03254	.02934	.02652	.02403	.02183
2	.05858	.05222	.04665	.04178	.03750	.03373	.03042	.02750	.02492	.02264
3	.06072	.05420	.04848	.04346	.03904	.03516	.03173	.02871	.02603	.02366
4	.06303	.05634	.05046	.04530	.04075	.03674	.03319	.03006	.02729	.02483
5	.06547	.05861	.05258	.04726	.04258	.03844	.03478	.03153	.02866	.02610
6	.06805	.06102	.05482	.04935	.04453	.04026	.03647	.03312	.03014	.02749
7	.07074	.06353	.05717	.05155	.04658	.04217	.03826	.03479	.03171	.02895
8	.07356	.06617	.05964	.05386	.04875	.04421	.04017	.03658	.03338	.03053
9	.07651	.06895	.06225	.05631	.05105	.04637	.04220	.03849	.03518	.03222
10	.07960	.07185	.06499	.05889	.05347	.04865	.04435	.04052	.03709	.03402
11	.08283	.07490	.06786	.06160	.05603	.05106	.04663	.04267	.03912	.03594
12	.08620	.07808	.07087	.06444	.05871	.05360	.04903	.04494	.04127	.03798
13	.08967	.08137	.07397	.06738	.06149	.05623	.05152	.04729	.04351	.04010
14	.09321	.08472	.07715	.07038	.06433	.05892	.05406	.04971	.04579	.04227
15	.09680	.08812	.08036	.07342	.06721	.06164	.05664	.05214	.04810	.04445
16	.10041	.09154	.08360	.07649	.07011	.06438	.05923	.05459	.05041	.04664
17	.10409	.09502	.08689	.07960	.07305	.06716	.06185	.05707	.05276	.04886
18	.10782	.09855	.09024	.08276	.07604	.06998	.06452	.05959	.05514	.05111
19	.11164	.10217	.09366	.08600	.07910	.07288	.06726	.06218	.05758	.05341
20	.11559	.10592	.09721	.08937	.08228	.07589	.07010	.06487	.06012	.05582
21	.11965	.10977	.10087	.09283	.08557	.07900	.07305	.06765	.06276	.05831
22	.12383	.11376	.10465	.09642	.08897	.08223	.07610	.07055	.06550	.06090
23	.12817	.11789	.10859	.10016	.09252	.08559	.07930	.07358	.06837	.06363
24	.13270	.12221	.11270	.10408	.09625	.08914	.08267	.07678	.07141	.06651
25	.13744	.12674	.11703	.10821	.10019	.09289	.08625	.08018	.07465	.06960
26	.14239	.13149	.12158	.11256	.10435	.09686	.09003	.08380	.07810	.07288
27	.14758	.13647	.12636	.11714	.10873	.10106	.09405	.08764	.08177	.07639
28	.15300	.14169	.13137	.12195	.11335	.10549	.09829	.09171	.08567	.08012
29	.15864	.14712	.13660	.12698	.11819	.11013	.10275	.09598	.08977	.08406
30	.16448	.15275	.14203	.13222	.12323	.11498	.10742	.10047	.09408	.08820
31	.17053	.15861	.14769	.13768	.12849	.12006	.11230	.10517	.09860	.09255
32	.17680	.16468	.15357	.14336	.13398	.12535	.11741	.11009	.10335	.09712
33	.18330	.17099	.15968	.14927	.13970	.13088	.12275	.11525	.10832	.10192
34	.19000	.17750	.16599	.15539	.14562	.13661	.12829	.12061	.11350	.10693

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
35	.19692	.18423	.17253	.16174	.15178	.14258	.13408	.12621	.11892	.11217
36	.20407	.19119	.17931	.16833	.15818	.14879	.14009	.13204	.12457	.11764
37	.21144	.19838	.18631	.17515	.16481	.15523	.14635	.13811	.13046	.12335
38	.21904	.20582	.19357	.18222	.17170	.16193	.15287	.14444	.13661	.12932
39	.22687	.21348	.20105	.18952	.17882	.16887	.15962	.15102	.14300	.13554
40	.23493	.22137	.20878	.19707	.18619	.17606	.16663	.15784	.14965	.14201
41	.24322	.22950	.21674	.20487	.19381	.18350	.17390	.16493	.15656	.14873
42	.25173	.23786	.22494	.21290	.20168	.19120	.18141	.17227	.16372	.15572
43	.26049	.24648	.23342	.22122	.20982	.19918	.18922	.17990	.17118	.16301
44	.26950	.25535	.24214	.22979	.21824	.20742	.19730	.18781	.17892	.17057
45	.27874	.26447	.25112	.23862	.22692	.21595	.20566	.19600	.18694	.17843
46	.28824	.27385	.26038	.24774	.23589	.22476	.21431	.20450	.19527	.18659
47	.29798	.28349	.26989	.25712	.24513	.23386	.22326	.21328	.20390	.19505
48	.30797	.29338	.27967	.26678	.25466	.24325	.23250	.22238	.21283	.20383
49	.31822	.30355	.28974	.27674	.26449	.25294	.24206	.23179	.22210	.21294
50	.32876	.31401	.30011	.28701	.27465	.26298	.25196	.24156	.23172	.22242
51	.33958	.32477	.31079	.29759	.28513	.27335	.26221	.25168	.24170	.23226
52	.35068	.33582	.32178	.30851	.29595	.28407	.27282	.26216	.25206	.24249
53	.36206	.34717	.33308	.31974	.30710	.29513	.28378	.27301	.26279	.25309
54	.37371	.35880	.34467	.33127	.31857	.30651	.29507	.28420	.27388	.26406
55	.38559	.37067	.35652	.34308	.33032	.31820	.30668	.29572	.28529	.27537
56	.39765	.38275	.36859	.35512	.34232	.33014	.31855	.30751	.29699	.28697
57	.40990	.39502	.38086	.36739	.35455	.34233	.33068	.31957	.30898	.29887
58	.42231	.40747	.39333	.37985	.36700	.35474	.34304	.33188	.32121	.31103
59	.43490	.42011	.40600	.39253	.37968	.36740	.35567	.34446	.33374	.32348
60	.44768	.43296	.41890	.40546	.39261	.38033	.36858	.35733	.34656	.33625
61	.46064	.44600	.43200	.41860	.40578	.39351	.38175	.37048	.35968	.34933
62	.47373	.45920	.44527	.43194	.41915	.40690	.39514	.38387	.37305	.36267
63	.48696	.47253	.45870	.44544	.43271	.42049	.40876	.39749	.38666	.37625
64	.50030	.48601	.47229	.45911	.44645	.43428	.42258	.41133	.40051	.39010
65	.51377	.49963	.48603	.47295	.46037	.44827	.43662	.42540	.41460	.40420
66	.52750	.51352	.50007	.48711	.47464	.46262	.45103	.43987	.42911	.41872
67	.54144	.52765	.51436	.50154	.48919	.47727	.46578	.45468	.44397	.43363
68	.55554	.54196	.52885	.51619	.50398	.49218	.48079	.46978	.45915	.44887
69	.56976	.55640	.54349	.53102	.51896	.50731	.49603	.48513	.47458	.46438
70	.58407	.57095	.55826	.54598	.53410	.52260	.51147	.50069	.49025	.48013

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
71	.59848	.58561	.57316	.56109	.54940	.53808	.52710	.51646	.50615	.49614
72	.61294	.60035	.58815	.57632	.56484	.55371	.54291	.53243	.52225	.51237
73	.62741	.61512	.60318	.59160	.58035	.56943	.55882	.54851	.53849	.52876
74	.64183	.62983	.61818	.60686	.59586	.58516	.57476	.56464	.55480	.54523
75	.65612	.64444	.63309	.62204	.61129	.60083	.59065	.58074	.57109	.56169
76	.67026	.65891	.64786	.63710	.62661	.61640	.60646	.59676	.58731	.57810
77	.68423	.67321	.66248	.65201	.64181	.63186	.62215	.61269	.60345	.59444
78	.69800	.68733	.67692	.66676	.65684	.64717	.63772	.62849	.61948	.61068
79	.71156	.70124	.69116	.68132	.67170	.66230	.65312	.64414	.63537	.62680
80	.72487	.71490	.70516	.69563	.68632	.67721	.66830	.65959	.65106	.64272
81	.73791	.72830	.71890	.70970	.70069	.69188	.68325	.67481	.66654	.65844
82	.75065	.74140	.73235	.72348	.71479	.70628	.69794	.68977	.68176	.67391
83	.76308	.75419	.74548	.73695	.72858	.72037	.71232	.70443	.69669	.68909
84	.77516	.76664	.75828	.75008	.74203	.73413	.72638	.71877	.71130	.70396
85	.78689	.77873	.77072	.76285	.75512	.74753	.74008	.73275	.72556	.71849
86	.79825	.79044	.78278	.77524	.76783	.76055	.75340	.74636	.73944	.73264
87	.80921	.80176	.79443	.78722	.78014	.77316	.76630	.75956	.75292	.74638
88	.81978	.81268	.80569	.79880	.79203	.78536	.77880	.77234	.76598	.75971
89	.82994	.82317	.81651	.80995	.80349	.79712	.79085	.78467	.77859	.77259
90	.83967	.83324	.82690	.82065	.81450	.80843	.80244	.79655	.79073	.78500
91	.84898	.84288	.83685	.83091	.82505	.81928	.81358	.80795	.80241	.79693
92	.85787	.85208	.84636	.84072	.83515	.82966	.82423	.81888	.81360	.80838
93	.86632	.86083	.85541	.85006	.84477	.83955	.83440	.82931	.82428	.81931
94	.87435	.86915	.86402	.85894	.85393	.84898	.84409	.83925	.83447	.82975
95	.88197	.87705	.87219	.86739	.86265	.85795	.85331	.84872	.84419	.83970
96	.88915	.88451	.87991	.87537	.87088	.86643	.86203	.85768	.85338	.84912
97	.89593	.89154	.88720	.88290	.87865	.87444	.87028	.86616	.86208	.85804
98	.90232	.89818	.89408	.89002	.88600	.88202	.87808	.87418	.87031	.86649
99	.90835	.90444	.90057	.89674	.89294	.88918	.88546	.88177	.87811	.87449
100	.91397	.91028	.90663	.90301	.89942	.89587	.89234	.88885	.88539	.88196
101	.91930	.91583	.91238	.90897	.90558	.90223	.89890	.89560	.89233	.88908
102	.92424	.92096	.91771	.91448	.91128	.90811	.90496	.90184	.89875	.89568
103	.92914	.92605	.92300	.91996	.91695	.91397	.91100	.90806	.90514	.90225
104	.93364	.93074	.92786	.92501	.92217	.91935	.91656	.91379	.91103	.90830
105	.93809	.93537	.93266	.92998	.92731	.92467	.92204	.91943	.91683	.91426
106	.94365	.94115	.93867	.93621	.93376	.93133	.92892	.92651	.92413	.92176
107	.94994	.94771	.94549	.94328	.94108	.93890	.93673	.93457	.93242	.93028
108	.96010	.95830	.95651	.95472	.95295	.95118	.94942	.94767	.94593	.94420
109	.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.02534	.02370	.02223	.02093	.01978	.01874	.01782	.01699	.01625	.01559
1	.01989	.01817	.01664	.01528	.01406	.01298	.01202	.01115	.01037	.00967
2	.02061	.01882	.01722	.01580	.01454	.01340	.01239	.01148	.01066	.00993
3	.02156	.01969	.01802	.01654	.01521	.01403	.01297	.01201	.01115	.01038
4	.02264	.02069	.01896	.01741	.01602	.01478	.01367	.01267	.01176	.01095
5	.02383	.02180	.01999	.01838	.01693	.01563	.01446	.01341	.01246	.01161
6	.02512	.02301	.02113	.01944	.01793	.01657	.01535	.01424	.01325	.01235
7	.02650	.02430	.02234	.02058	.01900	.01758	.01630	.01514	.01410	.01315
8	.02798	.02570	.02365	.02182	.02017	.01868	.01734	.01613	.01503	.01404
9	.02957	.02720	.02507	.02316	.02143	.01988	.01848	.01721	.01606	.01502
10	.03128	.02881	.02659	.02460	.02280	.02118	.01971	.01838	.01718	.01608
11	.03309	.03053	.02823	.02615	.02428	.02258	.02105	.01966	.01839	.01725
12	.03503	.03237	.02997	.02781	.02585	.02408	.02248	.02103	.01971	.01850
13	.03704	.03428	.03179	.02954	.02750	.02565	.02398	.02246	.02108	.01982
14	.03909	.03623	.03364	.03130	.02918	.02726	.02551	.02392	.02248	.02116
15	.04117	.03820	.03551	.03308	.03087	.02886	.02704	.02538	.02387	.02249
16	.04324	.04016	.03737	.03484	.03254	.03046	.02855	.02682	.02524	.02379
17	.04533	.04214	.03924	.03661	.03422	.03205	.03007	.02826	.02661	.02509
18	.04746	.04415	.04114	.03841	.03592	.03366	.03159	.02970	.02798	.02639
19	.04963	.04620	.04309	.04025	.03766	.03530	.03315	.03117	.02937	.02772
20	.05191	.04835	.04512	.04217	.03948	.03702	.03478	.03272	.03083	.02910
21	.05427	.05058	.04723	.04416	.04137	.03881	.03647	.03432	.03235	.03054
22	.05672	.05291	.04943	.04625	.04334	.04067	.03823	.03599	.03394	.03205
23	.05930	.05535	.05174	.04844	.04542	.04265	.04010	.03777	.03562	.03364
24	.06204	.05795	.05421	.05078	.04764	.04476	.04211	.03967	.03743	.03536
25	.06497	.06074	.05687	.05331	.05005	.04705	.04429	.04174	.03940	.03724
26	.06811	.06373	.05972	.05603	.05264	.04952	.04665	.04400	.04155	.03929
27	.07146	.06694	.06278	.05895	.05543	.05219	.04920	.04644	.04389	.04153
28	.07503	.07036	.06605	.06209	.05844	.05507	.05196	.04908	.04642	.04396
29	.07881	.07398	.06953	.06542	.06163	.05814	.05490	.05191	.04913	.04656
30	.08279	.07780	.07319	.06894	.06502	.06138	.05802	.05491	.05202	.04933
31	.08697	.08182	.07707	.07267	.06860	.06483	.06134	.05810	.05509	.05229
32	.09137	.08606	.08115	.07660	.07239	.06848	.06485	.06148	.05835	.05543
33	.09601	.09053	.08546	.08075	.07639	.07234	.06858	.06508	.06182	.05878
34	.10084	.09520	.08996	.08511	.08059	.07640	.07249	.06886	.06547	.06231

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
35	.10590	.10009	.09470	.08968	.08501	.08067	.07662	.07285	.06933	.06605
36	.11120	.10522	.09966	.09448	.08966	.08517	.08098	.07706	.07341	.06999
37	.11674	.11059	.10486	.09952	.09454	.08990	.08556	.08150	.07771	.07416
38	.12254	.11621	.11032	.10481	.09968	.09487	.09039	.08618	.08225	.07856
39	.12857	.12208	.11601	.11035	.10505	.10009	.09545	.09110	.08702	.08320
40	.13487	.12820	.12196	.11613	.11067	.10555	.10076	.09626	.09204	.08807
41	.14142	.13458	.12817	.12217	.11655	.11127	.10632	.10167	.09730	.09319
42	.14823	.14122	.13464	.12848	.12269	.11725	.11214	.10734	.10282	.09856
43	.15535	.14816	.14141	.13508	.12913	.12353	.11826	.11330	.10863	.10422
44	.16274	.15538	.14847	.14196	.13585	.13008	.12466	.11954	.11472	.11016
45	.17042	.16290	.15581	.14914	.14286	.13694	.13135	.12608	.12110	.11640
46	.17842	.17073	.16348	.15664	.15020	.14411	.13836	.13293	.12780	.12294
47	.18672	.17886	.17145	.16445	.15784	.15159	.14568	.14010	.13481	.12980
48	.19534	.18732	.17974	.17258	.16581	.15940	.15334	.14759	.14215	.13699
49	.20429	.19612	.18838	.18106	.17413	.16757	.16134	.15544	.14984	.14453
50	.21362	.20529	.19740	.18993	.18284	.17612	.16974	.16368	.15793	.15247
51	.22332	.21484	.20680	.19917	.19194	.18506	.17853	.17232	.16642	.16080
52	.23341	.22479	.21660	.20883	.20144	.19442	.18774	.18138	.17533	.16957
53	.24388	.23513	.22681	.21889	.21136	.20419	.19737	.19087	.18467	.17876
54	.25473	.24585	.23739	.22935	.22168	.21437	.20741	.20076	.19442	.18837
55	.26593	.25693	.24835	.24017	.23238	.22494	.21784	.21105	.20458	.19838
56	.27742	.26831	.25962	.25132	.24340	.23583	.22860	.22169	.21508	.20875
57	.28922	.28001	.27121	.26280	.25476	.24707	.23971	.23267	.22593	.21947
58	.30129	.29199	.28309	.27457	.26642	.25862	.25114	.24398	.23712	.23053
59	.31367	.30428	.29529	.28667	.27842	.27051	.26293	.25565	.24867	.24197
60	.32638	.31691	.30784	.29914	.29079	.28278	.27509	.26771	.26062	.25380
61	.33940	.32987	.32073	.31195	.30352	.29542	.28763	.28015	.27295	.26603
62	.35269	.34311	.33391	.32506	.31656	.30837	.30050	.29293	.28564	.27862
63	.36625	.35663	.34738	.33847	.32990	.32165	.31370	.30604	.29867	.29155
64	.38007	.37043	.36113	.35218	.34356	.33524	.32723	.31950	.31204	.30484
65	.39417	.38451	.37519	.36620	.35753	.34917	.34110	.33330	.32577	.31850
66	.40871	.39905	.38972	.38071	.37201	.36361	.35550	.34765	.34006	.33273
67	.42365	.41400	.40468	.39567	.38696	.37853	.37038	.36250	.35487	.34749
68	.43892	.42931	.42001	.41101	.40230	.39387	.38570	.37780	.37014	.36272
69	.45450	.44493	.43567	.42670	.41800	.40958	.40141	.39350	.38582	.37837
70	.47033	.46083	.45162	.44269	.43403	.42563	.41748	.40957	.40189	.39443

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
71	.48644	.47702	.46788	.45901	.45040	.44203	.43391	.42602	.41835	.41090
72	.50278	.49347	.48441	.47562	.46707	.45877	.45069	.44284	.43520	.42776
73	.51930	.51010	.50115	.49245	.48399	.47575	.46774	.45994	.45234	.44494
74	.53591	.52684	.51802	.50943	.50106	.49291	.48497	.47724	.46970	.46235
75	.55253	.54361	.53492	.52645	.51820	.51015	.50230	.49465	.48719	.47991
76	.56912	.56036	.55182	.54349	.53536	.52742	.51968	.51213	.50475	.49754
77	.58565	.57706	.56868	.56050	.55251	.54471	.53708	.52964	.52236	.51525
78	.60209	.59369	.58549	.57747	.56963	.56197	.55448	.54715	.53999	.53298
79	.61841	.61021	.60219	.59435	.58668	.57917	.57182	.56463	.55760	.55071
80	.63456	.62657	.61875	.61109	.60359	.59625	.58906	.58202	.57512	.56836
81	.65050	.64273	.63512	.62766	.62034	.61318	.60616	.59927	.59252	.58590
82	.66621	.65867	.65127	.64401	.63690	.62992	.62308	.61636	.60977	.60330
83	.68164	.67433	.66716	.66012	.65321	.64642	.63976	.63322	.62680	.62050
84	.69676	.68969	.68275	.67593	.66923	.66265	.65618	.64983	.64358	.63745
85	.71154	.70472	.69801	.69141	.68493	.67856	.67229	.66613	.66007	.65412
86	.72595	.71937	.71290	.70654	.70028	.69412	.68806	.68210	.67623	.67046
87	.73995	.73362	.72740	.72127	.71523	.70929	.70344	.69768	.69201	.68642
88	.75354	.74746	.74148	.73558	.72978	.72406	.71842	.71287	.70739	.70200
89	.76668	.76085	.75511	.74945	.74387	.73837	.73295	.72761	.72234	.71714
90	.77934	.77377	.76827	.76284	.75749	.75222	.74701	.74188	.73681	.73181
91	.79153	.78620	.78094	.77575	.77063	.76558	.76059	.75566	.75080	.74600
92	.80323	.79814	.79312	.78816	.78326	.77843	.77365	.76894	.76428	.75967
93	.81440	.80956	.80477	.80004	.79536	.79074	.78618	.78166	.77721	.77280
94	.82508	.82047	.81591	.81140	.80694	.80253	.79817	.79387	.78961	.78539
95	.83526	.83088	.82654	.82225	.81800	.81380	.80965	.80554	.80148	.79746
96	.84491	.84074	.83662	.83254	.82850	.82450	.82055	.81663	.81276	.80892
97	.85405	.85009	.84617	.84230	.83846	.83466	.83089	.82717	.82348	.81982
98	.86270	.85895	.85523	.85155	.84791	.84430	.84072	.83718	.83367	.83019
99	.87090	.86735	.86382	.86033	.85687	.85345	.85005	.84668	.84335	.84004
100	.87856	.87519	.87185	.86854	.86526	.86201	.85878	.85559	.85242	.84927
101	.88587	.88268	.87952	.87638	.87327	.87019	.86713	.86409	.86109	.85810
102	.89263	.88961	.88662	.88364	.88069	.87777	.87487	.87199	.86913	.86629
103	.89938	.89653	.89370	.89089	.88810	.88534	.88259	.87987	.87717	.87448
104	.90558	.90289	.90021	.89756	.89492	.89231	.88971	.88713	.88456	.88202
105	.91170	.90916	.90664	.90413	.90164	.89917	.89672	.89428	.89186	.88945
106	.91940	.91706	.91474	.91242	.91013	.90784	.90558	.90332	.90108	.89885
107	.92816	.92605	.92395	.92186	.91978	.91772	.91567	.91362	.91159	.90957
108	.94247	.94075	.93904	.93734	.93565	.93396	.93229	.93062	.92895	.92730
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01498	.01444	.01395	.01351	.01310	.01273	.01240	.01209	.01181	.01155
1	.00904	.00847	.00796	.00749	.00707	.00668	.00633	.00601	.00572	.00545
2	.00926	.00866	.00812	.00763	.00718	.00677	.00640	.00606	.00575	.00547
3	.00968	.00905	.00848	.00796	.00748	.00705	.00666	.00630	.00597	.00567
4	.01021	.00955	.00894	.00839	.00789	.00744	.00702	.00664	.00629	.00597
5	.01083	.01013	.00949	.00891	.00839	.00790	.00746	.00706	.00669	.00635
6	.01153	.01080	.01012	.00951	.00895	.00844	.00798	.00755	.00715	.00679
7	.01229	.01151	.01081	.01016	.00957	.00903	.00854	.00808	.00767	.00728
8	.01314	.01232	.01157	.01089	.01026	.00969	.00917	.00869	.00825	.00784
9	.01407	.01321	.01242	.01170	.01104	.01044	.00989	.00938	.00891	.00848
10	.01509	.01418	.01335	.01259	.01190	.01126	.01068	.01014	.00965	.00919
11	.01620	.01525	.01437	.01358	.01285	.01218	.01156	.01099	.01047	.00998
12	.01740	.01640	.01549	.01465	.01388	.01317	.01252	.01192	.01137	.01086
13	.01867	.01762	.01665	.01577	.01496	.01422	.01353	.01290	.01231	.01177
14	.01995	.01885	.01784	.01691	.01606	.01527	.01455	.01389	.01327	.01270
15	.02123	.02007	.01901	.01803	.01714	.01632	.01556	.01485	.01420	.01360
16	.02247	.02126	.02015	.01913	.01818	.01732	.01652	.01578	.01509	.01446
17	.02371	.02244	.02127	.02020	.01921	.01830	.01746	.01668	.01596	.01529
18	.02494	.02361	.02239	.02126	.02022	.01926	.01838	.01756	.01680	.01610
19	.02620	.02480	.02352	.02234	.02125	.02024	.01931	.01844	.01764	.01690
20	.02751	.02605	.02471	.02346	.02232	.02126	.02028	.01937	.01853	.01775
21	.02888	.02735	.02593	.02463	.02343	.02231	.02128	.02032	.01944	.01861
22	.03030	.02870	.02722	.02585	.02458	.02341	.02233	.02132	.02038	.01951
23	.03181	.03013	.02858	.02714	.02581	.02458	.02344	.02237	.02139	.02047
24	.03345	.03169	.03006	.02855	.02715	.02586	.02465	.02353	.02249	.02152
25	.03524	.03340	.03169	.03010	.02863	.02727	.02600	.02482	.02373	.02270
26	.03720	.03527	.03348	.03181	.03027	.02884	.02750	.02626	.02510	.02402
27	.03934	.03732	.03544	.03370	.03208	.03057	.02916	.02786	.02664	.02549
28	.04167	.03955	.03759	.03576	.03406	.03247	.03099	.02962	.02833	.02713
29	.04417	.04196	.03990	.03798	.03619	.03453	.03298	.03153	.03017	.02890
30	.04684	.04452	.04237	.04036	.03848	.03674	.03510	.03358	.03215	.03081
31	.04969	.04727	.04501	.04291	.04094	.03911	.03739	.03579	.03428	.03287
32	.05272	.05019	.04783	.04563	.04357	.04165	.03984	.03816	.03657	.03509
33	.05595	.05331	.05085	.04854	.04639	.04437	.04248	.04070	.03904	.03748
34	.05936	.05661	.05403	.05162	.04936	.04725	.04527	.04341	.04166	.04001

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
35	.06297	.06010	.05741	.05489	.05253	.05032	.04824	.04629	.04445	.04272
36	.06679	.06380	.06100	.05837	.05590	.05358	.05140	.04935	.04742	.04561
37	.07083	.06771	.06479	.06204	.05947	.05704	.05476	.05261	.05059	.04868
38	.07511	.07186	.06881	.06595	.06326	.06072	.05834	.05609	.05397	.05196
39	.07961	.07623	.07306	.07007	.06726	.06462	.06212	.05977	.05754	.05544
40	.08434	.08083	.07753	.07442	.07149	.06873	.06612	.06366	.06133	.05913
41	.08932	.08568	.08225	.07901	.07596	.07308	.07035	.06778	.06534	.06304
42	.09455	.09077	.08720	.08384	.08066	.07766	.07481	.07213	.06958	.06717
43	.10007	.09615	.09245	.08895	.08564	.08251	.07955	.07674	.07408	.07156
44	.10586	.10180	.09796	.09433	.09089	.08763	.08454	.08162	.07884	.07621
45	.11195	.10774	.10376	.09999	.09642	.09303	.08982	.08677	.08387	.08112
46	.11835	.11400	.10987	.10596	.10225	.09873	.09539	.09222	.08920	.08633
47	.12505	.12055	.11629	.11224	.10839	.10474	.10126	.09796	.09482	.09182
48	.13209	.12745	.12303	.11884	.11485	.11106	.10746	.10402	.10075	.09764
49	.13948	.13469	.13013	.12579	.12167	.11774	.11400	.11043	.10703	.10379
50	.14727	.14233	.13762	.13314	.12887	.12481	.12093	.11723	.11370	.11033
51	.15546	.15037	.14551	.14089	.13648	.13228	.12826	.12443	.12077	.11726
52	.16407	.15884	.15384	.14907	.14452	.14018	.13603	.13206	.12826	.12463
53	.17312	.16774	.16260	.15769	.15300	.14852	.14423	.14012	.13620	.13243
54	.18259	.17707	.17179	.16674	.16191	.15729	.15286	.14862	.14456	.14067
55	.19247	.18680	.18139	.17620	.17123	.16648	.16192	.15755	.15335	.14933
56	.20270	.19690	.19135	.18602	.18092	.17603	.17134	.16684	.16251	.15836
57	.21329	.20736	.20167	.19622	.19099	.18596	.18114	.17650	.17205	.16777
58	.22422	.21816	.21235	.20677	.20140	.19625	.19130	.18653	.18195	.17754
59	.23553	.22935	.22341	.21770	.21221	.20693	.20185	.19696	.19225	.18772
60	.24725	.24095	.23489	.22906	.22345	.21805	.21285	.20783	.20300	.19834
61	.25937	.25296	.24679	.24084	.23511	.22959	.22427	.21914	.21419	.20941
62	.27185	.26534	.25906	.25300	.24716	.24153	.23609	.23084	.22577	.22088
63	.28469	.27808	.27169	.26553	.25959	.25384	.24830	.24294	.23776	.23275
64	.29789	.29119	.28471	.27845	.27240	.26656	.26091	.25544	.25016	.24504
65	.31148	.30468	.29812	.29177	.28563	.27969	.27394	.26837	.26299	.25777
66	.32564	.31877	.31213	.30570	.29948	.29345	.28761	.28195	.27647	.27115
67	.34034	.33341	.32671	.32021	.31391	.30780	.30188	.29614	.29057	.28517
68	.35552	.34855	.34179	.33523	.32887	.32270	.31671	.31089	.30524	.29976
69	.37115	.36414	.35734	.35073	.34432	.33809	.33204	.32616	.32045	.31489
70	.38719	.38016	.37332	.36668	.36023	.35396	.34786	.34193	.33616	.33054

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

Interest Rate

AGE	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
71	.40366	.39662	.38977	.38311	.37663	.37032	.36419	.35821	.35240	.34674
72	.42053	.41350	.40665	.39998	.39349	.38716	.38100	.37500	.36916	.36346
73	.43774	.43073	.42389	.41723	.41074	.40441	.39824	.39222	.38636	.38063
74	.45519	.44821	.44140	.43476	.42829	.42197	.41580	.40979	.40391	.39818
75	.47280	.46587	.45910	.45250	.44605	.43975	.43360	.42759	.42173	.41599
76	.49051	.48364	.47693	.47037	.46396	.45770	.45158	.44560	.43975	.43403
77	.50830	.50150	.49486	.48836	.48201	.47580	.46972	.46377	.45795	.45225
78	.52613	.51942	.51286	.50644	.50015	.49400	.48797	.48208	.47630	.47064
79	.54396	.53736	.53089	.52456	.51835	.51227	.50632	.50048	.49476	.48915
80	.56174	.55525	.54888	.54265	.53653	.53054	.52466	.51890	.51325	.50770
81	.57941	.57305	.56681	.56068	.55467	.54878	.54299	.53731	.53174	.52627
82	.59696	.59073	.58461	.57861	.57272	.56693	.56125	.55566	.55018	.54480
83	.61430	.60822	.60224	.59637	.59061	.58494	.57937	.57389	.56851	.56322
84	.63142	.62549	.61966	.61393	.60830	.60276	.59731	.59196	.58669	.58150
85	.64825	.64249	.63682	.63124	.62575	.62035	.61503	.60980	.60465	.59958
86	.66477	.65918	.65367	.64825	.64291	.63765	.63248	.62738	.62236	.61741
87	.68092	.67550	.67016	.66490	.65972	.65462	.64959	.64463	.63975	.63493
88	.69669	.69145	.68628	.68119	.67618	.67123	.66635	.66154	.65680	.65212
89	.71201	.70696	.70198	.69706	.69221	.68742	.68270	.67805	.67345	.66892
90	.72688	.72201	.71721	.71246	.70779	.70317	.69861	.69411	.68966	.68528
91	.74126	.73658	.73196	.72739	.72289	.71844	.71404	.70970	.70541	.70117
92	.75513	.75063	.74620	.74181	.73748	.73320	.72897	.72479	.72066	.71657
93	.76844	.76414	.75988	.75568	.75152	.74741	.74334	.73932	.73535	.73142
94	.78123	.77711	.77303	.76901	.76502	.76108	.75718	.75332	.74951	.74573
95	.79348	.78954	.78565	.78179	.77798	.77421	.77047	.76677	.76312	.75950
96	.80513	.80137	.79765	.79397	.79032	.78671	.78314	.77960	.77610	.77263
97	.81621	.81262	.80908	.80556	.80208	.79864	.79522	.79184	.78849	.78517
98	.82674	.82333	.81995	.81660	.81328	.80999	.80673	.80351	.80031	.79713
99	.83677	.83352	.83030	.82711	.82395	.82082	.81771	.81463	.81158	.80855
100	.84616	.84307	.84001	.83697	.83396	.83097	.82801	.82507	.82216	.81927
101	.85514	.85221	.84930	.84641	.84355	.84070	.83788	.83509	.83231	.82956
102	.86348	.86069	.85792	.85517	.85245	.84974	.84706	.84439	.84175	.83912
103	.87182	.86918	.86655	.86395	.86136	.85880	.85625	.85372	.85121	.84872
104	.87950	.87699	.87450	.87203	.86957	.86713	.86471	.86231	.85992	.85755
105	.88706	.88468	.88232	.87998	.87765	.87534	.87304	.87076	.86849	.86624
106	.89664	.89444	.89225	.89008	.88792	.88577	.88364	.88152	.87941	.87731
107	.90756	.90557	.90358	.90160	.89964	.89768	.89574	.89380	.89188	.88997
108	.92565	.92401	.92238	.92075	.91914	.91753	.91592	.91433	.91274	.91116
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01132	.01110	.01089	.01071	.01053	.01037	.01022	.01008	.00995	.00983
1	.00520	.00497	.00476	.00457	.00439	.00423	.00407	.00393	.00379	.00367
2	.00521	.00496	.00474	.00454	.00435	.00417	.00401	.00385	.00371	.00358
3	.00539	.00513	.00490	.00468	.00447	.00429	.00411	.00395	.00380	.00366
4	.00567	.00540	.00515	.00492	.00470	.00450	.00432	.00414	.00398	.00383
5	.00603	.00574	.00547	.00523	.00500	.00478	.00459	.00440	.00423	.00407
6	.00646	.00615	.00587	.00560	.00536	.00513	.00492	.00472	.00453	.00436
7	.00693	.00660	.00630	.00602	.00576	.00551	.00529	.00508	.00488	.00469
8	.00747	.00712	.00680	.00650	.00622	.00596	.00572	.00549	.00528	.00509
9	.00808	.00771	.00737	.00705	.00675	.00648	.00622	.00598	.00576	.00555
10	.00877	.00838	.00801	.00767	.00736	.00707	.00679	.00654	.00630	.00608
11	.00954	.00912	.00873	.00838	.00804	.00773	.00744	.00717	.00692	.00668
12	.01038	.00994	.00953	.00915	.00880	.00847	.00816	.00788	.00761	.00735
13	.01127	.01081	.01038	.00998	.00960	.00925	.00893	.00862	.00833	.00806
14	.01217	.01168	.01122	.01080	.01040	.01003	.00969	.00937	.00906	.00878
15	.01305	.01253	.01205	.01160	.01118	.01079	.01042	.01008	.00976	.00946
16	.01387	.01333	.01282	.01234	.01190	.01149	.01110	.01074	.01040	.01009
17	.01467	.01409	.01356	.01306	.01259	.01216	.01175	.01137	.01101	.01067
18	.01544	.01484	.01427	.01374	.01325	.01279	.01236	.01195	.01157	.01122
19	.01621	.01557	.01497	.01442	.01390	.01341	.01295	.01253	.01213	.01175
20	.01702	.01634	.01571	.01512	.01457	.01406	.01357	.01312	.01270	.01230
21	.01784	.01713	.01646	.01584	.01526	.01471	.01420	.01372	.01327	.01285
22	.01870	.01794	.01724	.01658	.01596	.01539	.01485	.01434	.01386	.01342
23	.01961	.01881	.01807	.01737	.01672	.01611	.01554	.01500	.01449	.01402
24	.02062	.01977	.01899	.01825	.01756	.01691	.01630	.01573	.01520	.01469
25	.02175	.02085	.02002	.01924	.01851	.01782	.01718	.01657	.01600	.01547
26	.02301	.02207	.02119	.02036	.01958	.01886	.01817	.01753	.01692	.01635
27	.02443	.02343	.02250	.02162	.02080	.02003	.01930	.01862	.01798	.01737
28	.02600	.02495	.02396	.02303	.02216	.02134	.02057	.01985	.01916	.01852
29	.02771	.02660	.02555	.02457	.02365	.02278	.02197	.02120	.02047	.01979
30	.02956	.02838	.02728	.02624	.02526	.02434	.02348	.02266	.02189	.02116
31	.03155	.03031	.02914	.02804	.02701	.02604	.02512	.02425	.02344	.02266
32	.03370	.03239	.03115	.02999	.02890	.02787	.02690	.02598	.02511	.02429
33	.03601	.03463	.03333	.03210	.03095	.02985	.02883	.02785	.02693	.02606
34	.03847	.03701	.03564	.03434	.03312	.03197	.03088	.02985	.02887	.02795

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
35	.04109	.03956	.03811	.03675	.03546	.03424	.03308	.03199	.03096	.02998
36	.04390	.04228	.04076	.03932	.03795	.03667	.03545	.03429	.03320	.03216
37	.04688	.04518	.04358	.04206	.04062	.03926	.03798	.03676	.03560	.03450
38	.05007	.04829	.04660	.04500	.04349	.04205	.04069	.03940	.03818	.03701
39	.05346	.05158	.04981	.04812	.04653	.04502	.04358	.04222	.04092	.03969
40	.05705	.05508	.05321	.05144	.04976	.04817	.04666	.04522	.04385	.04255
41	.06086	.05879	.05683	.05497	.05320	.05152	.04993	.04841	.04697	.04559
42	.06488	.06271	.06066	.05870	.05684	.05508	.05340	.05180	.05028	.04882
43	.06917	.06690	.06474	.06269	.06074	.05888	.05711	.05543	.05382	.05229
44	.07370	.07132	.06906	.06691	.06486	.06291	.06105	.05928	.05759	.05598
45	.07850	.07602	.07365	.07139	.06924	.06719	.06524	.06338	.06160	.05990
46	.08360	.08100	.07852	.07616	.07390	.07176	.06970	.06775	.06587	.06409
47	.08897	.08626	.08367	.08120	.07884	.07659	.07443	.07238	.07041	.06853
48	.09466	.09183	.08912	.08654	.08407	.08172	.07946	.07730	.07524	.07326
49	.10069	.09774	.09492	.09222	.08964	.08717	.08481	.08255	.08038	.07831
50	.10711	.10403	.10109	.09827	.09558	.09300	.09053	.08816	.08589	.08371
51	.11392	.11072	.10765	.10472	.10191	.09921	.09663	.09415	.09178	.08950
52	.12116	.11783	.11464	.11159	.10866	.10585	.10315	.10057	.09808	.09569
53	.12883	.12538	.12206	.11889	.11584	.11291	.11010	.10740	.10481	.10231
54	.13694	.13336	.12992	.12662	.12345	.12041	.11748	.11467	.11196	.10936
55	.14547	.14176	.13820	.13478	.13149	.12832	.12528	.12235	.11953	.11682
56	.15437	.15054	.14685	.14330	.13989	.13661	.13345	.13040	.12747	.12464
57	.16365	.15969	.15588	.15221	.14868	.14527	.14199	.13883	.13578	.13284
58	.17330	.16921	.16528	.16149	.15783	.15431	.15091	.14763	.14447	.14141
59	.18335	.17914	.17508	.17117	.16739	.16375	.16023	.15684	.15356	.15039
60	.19385	.18952	.18534	.18131	.17741	.17365	.17001	.16650	.16311	.15982
61	.20480	.20035	.19605	.19189	.18788	.18400	.18025	.17662	.17311	.16971
62	.21615	.21158	.20717	.20290	.19877	.19477	.19090	.18716	.18354	.18003
63	.22791	.22323	.21870	.21431	.21007	.20596	.20198	.19812	.19439	.19077
64	.24009	.23530	.23066	.22616	.22181	.21758	.21349	.20953	.20568	.20195
65	.25271	.24781	.24306	.23846	.23400	.22967	.22547	.22139	.21744	.21360
66	.26600	.26100	.25615	.25145	.24688	.24245	.23814	.23396	.22990	.22596
67	.27992	.27483	.26989	.26509	.26043	.25590	.25150	.24722	.24306	.23901
68	.29443	.28926	.28423	.27934	.27459	.26997	.26548	.26110	.25685	.25271
69	.30950	.30424	.29914	.29417	.28934	.28463	.28005	.27559	.27125	.26703
70	.32508	.31976	.31459	.30955	.30464	.29986	.29520	.29067	.28625	.28194

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
71	.34122	.33585	.33062	.32552	.32054	.31570	.31097	.30637	.30187	.29749
72	.35790	.35249	.34721	.34205	.33703	.33213	.32734	.32268	.31812	.31367
73	.37505	.36960	.36428	.35909	.35403	.34908	.34425	.33953	.33492	.33042
74	.39258	.38711	.38177	.37655	.37145	.36647	.36160	.35684	.35219	.34764
75	.41039	.40491	.39956	.39432	.38921	.38420	.37931	.37452	.36983	.36525
76	.42843	.42296	.41760	.41236	.40724	.40222	.39731	.39250	.38779	.38318
77	.44668	.44122	.43588	.43065	.42552	.42050	.41559	.41077	.40605	.40143
78	.46510	.45967	.45435	.44914	.44403	.43902	.43411	.42930	.42458	.41995
79	.48365	.47826	.47298	.46780	.46271	.45773	.45284	.44804	.44333	.43871
80	.50226	.49693	.49169	.48655	.48150	.47655	.47169	.46692	.46224	.45763
81	.52090	.51562	.51044	.50536	.50036	.49546	.49064	.48590	.48125	.47668
82	.53951	.53431	.52920	.52418	.51924	.51439	.50963	.50494	.50033	.49580
83	.55802	.55291	.54788	.54294	.53808	.53329	.52859	.52396	.51941	.51493
84	.57640	.57139	.56645	.56159	.55681	.55210	.54747	.54291	.53843	.53401
85	.59459	.58968	.58484	.58008	.57539	.57077	.56623	.56175	.55733	.55298
86	.61254	.60774	.60302	.59836	.59377	.58925	.58479	.58040	.57607	.57180
87	.63019	.62551	.62090	.61635	.61187	.60745	.60309	.59880	.59456	.59038
88	.64751	.64296	.63847	.63405	.62968	.62537	.62112	.61693	.61279	.60871
89	.66444	.66003	.65567	.65137	.64712	.64293	.63880	.63471	.63068	.62670
90	.68094	.67667	.67244	.66827	.66415	.66009	.65607	.65210	.64818	.64431
91	.69699	.69285	.68877	.68473	.68074	.67680	.67291	.66906	.66526	.66150
92	.71254	.70855	.70460	.70071	.69685	.69304	.68928	.68555	.68187	.67823
93	.72753	.72369	.71989	.71613	.71242	.70874	.70510	.70150	.69794	.69442
94	.74200	.73830	.73464	.73103	.72745	.72390	.72040	.71693	.71350	.71010
95	.75591	.75236	.74885	.74538	.74194	.73853	.73516	.73182	.72851	.72524
96	.76920	.76580	.76243	.75909	.75579	.75252	.74928	.74607	.74289	.73974
97	.78188	.77863	.77540	.77220	.76904	.76590	.76279	.75971	.75665	.75363
98	.79399	.79088	.78779	.78473	.78170	.77869	.77571	.77276	.76983	.76693
99	.80555	.80257	.79962	.79670	.79380	.79092	.78807	.78525	.78244	.77966
100	.81641	.81357	.81075	.80796	.80518	.80243	.79971	.79700	.79432	.79165
101	.82683	.82412	.82144	.81877	.81612	.81350	.81089	.80831	.80574	.80320
102	.83652	.83394	.83137	.82882	.82630	.82379	.82130	.81883	.81637	.81394
103	.84624	.84379	.84135	.83892	.83652	.83413	.83176	.82941	.82707	.82475
104	.85519	.85285	.85053	.84822	.84593	.84365	.84139	.83915	.83692	.83470
105	.86400	.86178	.85957	.85737	.85519	.85302	.85087	.84873	.84660	.84449
106	.87523	.87316	.87110	.86905	.86702	.86500	.86299	.86099	.85900	.85703
107	.88806	.88617	.88429	.88242	.88055	.87870	.87686	.87502	.87320	.87139
108	.90958	.90802	.90646	.90490	.90336	.90182	.90028	.89876	.89724	.89573
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.00972	.00961	.00951	.00941	.00932	.00924	.00916	.00908	.00901	.00894
1	.00355	.00345	.00334	.00325	.00316	.00307	.00299	.00292	.00285	.00278
2	.00346	.00334	.00323	.00313	.00303	.00294	.00286	.00278	.00270	.00263
3	.00353	.00340	.00329	.00318	.00307	.00298	.00289	.00280	.00272	.00264
4	.00369	.00356	.00343	.00332	.00321	.00310	.00300	.00291	.00283	.00274
5	.00392	.00377	.00364	.00352	.00340	.00329	.00318	.00308	.00299	.00290
6	.00420	.00405	.00391	.00377	.00365	.00353	.00342	.00331	.00321	.00311
7	.00452	.00436	.00421	.00406	.00393	.00380	.00368	.00357	.00346	.00336
8	.00490	.00473	.00457	.00441	.00427	.00413	.00400	.00388	.00376	.00365
9	.00535	.00517	.00499	.00483	.00467	.00453	.00439	.00426	.00413	.00402
10	.00587	.00567	.00548	.00531	.00514	.00499	.00484	.00470	.00456	.00444
11	.00645	.00624	.00605	.00586	.00568	.00551	.00536	.00521	.00506	.00493
12	.00711	.00689	.00668	.00648	.00629	.00611	.00595	.00579	.00563	.00549
13	.00781	.00757	.00735	.00714	.00694	.00675	.00657	.00640	.00624	.00609
14	.00851	.00826	.00802	.00780	.00759	.00739	.00720	.00702	.00684	.00668
15	.00918	.00891	.00866	.00842	.00820	.00799	.00779	.00759	.00741	.00724
16	.00979	.00950	.00924	.00899	.00875	.00853	.00832	.00811	.00792	.00774
17	.01035	.01006	.00978	.00951	.00926	.00902	.00880	.00859	.00838	.00819
18	.01088	.01057	.01027	.00999	.00973	.00948	.00924	.00901	.00880	.00860
19	.01139	.01106	.01075	.01045	.01017	.00990	.00965	.00942	.00919	.00898
20	.01192	.01157	.01124	.01092	.01063	.01035	.01008	.00983	.00959	.00936
21	.01245	.01208	.01173	.01139	.01108	.01078	.01050	.01023	.00998	.00974
22	.01300	.01260	.01222	.01187	.01154	.01122	.01092	.01064	.01037	.01011
23	.01357	.01315	.01275	.01238	.01202	.01168	.01137	.01106	.01078	.01051
24	.01422	.01377	.01334	.01294	.01257	.01221	.01187	.01155	.01124	.01095
25	.01496	.01448	.01403	.01361	.01320	.01282	.01246	.01212	.01180	.01149
26	.01582	.01531	.01483	.01438	.01395	.01354	.01316	.01279	.01244	.01211
27	.01680	.01626	.01575	.01527	.01481	.01437	.01396	.01357	.01320	.01285
28	.01791	.01734	.01679	.01628	.01579	.01533	.01489	.01447	.01408	.01370
29	.01914	.01853	.01795	.01740	.01688	.01639	.01592	.01548	.01505	.01465
30	.02048	.01982	.01921	.01862	.01807	.01754	.01704	.01657	.01612	.01569
31	.02193	.02124	.02058	.01996	.01937	.01881	.01828	.01777	.01729	.01683
32	.02351	.02278	.02208	.02142	.02079	.02019	.01962	.01908	.01857	.01808
33	.02523	.02445	.02371	.02300	.02234	.02170	.02109	.02052	.01997	.01944
34	.02707	.02624	.02545	.02470	.02399	.02331	.02267	.02205	.02146	.02091

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
35	.02905	.02817	.02733	.02653	.02577	.02505	.02436	.02371	.02308	.02249
36	.03117	.03024	.02935	.02850	.02769	.02693	.02619	.02550	.02483	.02419
37	.03345	.03246	.03151	.03061	.02976	.02894	.02816	.02742	.02671	.02603
38	.03590	.03485	.03385	.03289	.03198	.03112	.03029	.02950	.02874	.02802
39	.03852	.03740	.03634	.03533	.03436	.03344	.03256	.03172	.03092	.03015
40	.04131	.04013	.03900	.03793	.03690	.03593	.03499	.03410	.03324	.03242
41	.04428	.04303	.04184	.04070	.03962	.03858	.03759	.03664	.03573	.03486
42	.04744	.04612	.04486	.04366	.04250	.04140	.04035	.03934	.03838	.03745
43	.05083	.04943	.04810	.04683	.04561	.04444	.04333	.04226	.04123	.04025
44	.05443	.05296	.05155	.05021	.04892	.04768	.04650	.04537	.04428	.04324
45	.05827	.05672	.05523	.05381	.05245	.05114	.04989	.04869	.04754	.04643
46	.06237	.06074	.05917	.05767	.05623	.05485	.05352	.05225	.05103	.04986
47	.06673	.06500	.06335	.06177	.06025	.05879	.05739	.05605	.05475	.05351
48	.07137	.06955	.06781	.06614	.06454	.06300	.06152	.06010	.05874	.05742
49	.07632	.07441	.07258	.07082	.06913	.06750	.06595	.06444	.06300	.06161
50	.08162	.07962	.07769	.07584	.07407	.07236	.07071	.06913	.06760	.06614
51	.08731	.08520	.08318	.08124	.07937	.07757	.07583	.07416	.07256	.07101
52	.09340	.09119	.08907	.08703	.08507	.08317	.08135	.07959	.07790	.07627
53	.09991	.09760	.09538	.09324	.09118	.08919	.08728	.08543	.08365	.08193
54	.10685	.10443	.10211	.09987	.09771	.09562	.09361	.09167	.08980	.08799
55	.11420	.11168	.10925	.10690	.10464	.10246	.10035	.09832	.09635	.09445
56	.12191	.11928	.11675	.11430	.11193	.10965	.10745	.10531	.10325	.10126
57	.13001	.12727	.12462	.12207	.11960	.11721	.11491	.11268	.11052	.10843
58	.13846	.13561	.13286	.13020	.12762	.12513	.12273	.12040	.11814	.11595
59	.14732	.14436	.14150	.13873	.13605	.13346	.13095	.12851	.12616	.12388
60	.15665	.15358	.15060	.14772	.14494	.14224	.13962	.13709	.13463	.13225
61	.16642	.16324	.16016	.15717	.15428	.15147	.14875	.14611	.14355	.14107
62	.17663	.17333	.17014	.16704	.16404	.16113	.15830	.15556	.15290	.15031
63	.18726	.18385	.18055	.17734	.17423	.17121	.16828	.16544	.16267	.15999
64	.19833	.19481	.19140	.18809	.18487	.18175	.17871	.17576	.17289	.17010
65	.20987	.20624	.20273	.19931	.19598	.19275	.18961	.18656	.18358	.18069
66	.22213	.21840	.21478	.21125	.20783	.20449	.20125	.19809	.19501	.19202
67	.23508	.23125	.22753	.22390	.22037	.21694	.21360	.21034	.20716	.20407
68	.24868	.24476	.24094	.23722	.23359	.23006	.22662	.22327	.22000	.21681
69	.26291	.25889	.25498	.25117	.24745	.24383	.24030	.23685	.23349	.23020
70	.27773	.27364	.26964	.26574	.26194	.25823	.25461	.25107	.24762	.24425

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
71	.29321	.28904	.28496	.28099	.27710	.27331	.26961	.26599	.26246	.25900
72	.30933	.30508	.30094	.29689	.29294	.28907	.28530	.28160	.27799	.27446
73	.32602	.32171	.31751	.31340	.30938	.30545	.30160	.29784	.29416	.29056
74	.34319	.33884	.33458	.33042	.32634	.32236	.31845	.31463	.31089	.30723
75	.36076	.35637	.35207	.34786	.34374	.33970	.33575	.33188	.32808	.32437
76	.37867	.37425	.36991	.36567	.36151	.35744	.35344	.34953	.34569	.34192
77	.39690	.39245	.38810	.38383	.37964	.37554	.37151	.36756	.36369	.35989
78	.41541	.41096	.40659	.40231	.39811	.39398	.38993	.38596	.38206	.37823
79	.43418	.42973	.42536	.42107	.41686	.41272	.40866	.40467	.40075	.39691
80	.45311	.44868	.44432	.44003	.43582	.43169	.42763	.42363	.41971	.41585
81	.47219	.46777	.46343	.45916	.45497	.45084	.44679	.44280	.43888	.43502
82	.49135	.48696	.48265	.47841	.47424	.47014	.46610	.46213	.45822	.45437
83	.51052	.50618	.50191	.49771	.49357	.48950	.48549	.48154	.47766	.47383
84	.52966	.52537	.52115	.51700	.51291	.50887	.50490	.50099	.49714	.49334
85	.54870	.54448	.54032	.53622	.53218	.52820	.52428	.52041	.51660	.51284
86	.56759	.56344	.55935	.55532	.55135	.54742	.54356	.53974	.53598	.53227
87	.58626	.58219	.57818	.57422	.57031	.56646	.56266	.55891	.55521	.55155
88	.60468	.60070	.59677	.59290	.58907	.58529	.58157	.57788	.57425	.57066
89	.62277	.61888	.61505	.61126	.60753	.60383	.60018	.59658	.59302	.58950
90	.64048	.63670	.63296	.62927	.62563	.62202	.61846	.61494	.61146	.60803
91	.65778	.65411	.65048	.64689	.64334	.63983	.63636	.63293	.62954	.62619
92	.67462	.67106	.66754	.66406	.66061	.65720	.65383	.65050	.64720	.64393
93	.69094	.68749	.68408	.68071	.67737	.67406	.67079	.66756	.66435	.66118
94	.70673	.70340	.70011	.69685	.69362	.69042	.68725	.68412	.68102	.67794
95	.72199	.71878	.71560	.71246	.70934	.70625	.70319	.70016	.69716	.69419
96	.73662	.73353	.73047	.72743	.72443	.72145	.71850	.71557	.71268	.70981
97	.75063	.74766	.74471	.74180	.73890	.73604	.73319	.73038	.72758	.72482
98	.76405	.76120	.75837	.75557	.75279	.75003	.74730	.74459	.74190	.73923
99	.77690	.77417	.77146	.76877	.76610	.76345	.76083	.75822	.75564	.75308
100	.78901	.78639	.78379	.78121	.77866	.77612	.77360	.77110	.76862	.76616
101	.80067	.79816	.79568	.79321	.79076	.78832	.78591	.78351	.78114	.77877
102	.81152	.80912	.80674	.80438	.80203	.79970	.79738	.79508	.79280	.79054
103	.82245	.82016	.81789	.81563	.81339	.81116	.80895	.80676	.80458	.80241
104	.83250	.83031	.82814	.82599	.82384	.82171	.81960	.81750	.81541	.81334
105	.84239	.84030	.83823	.83617	.83412	.83209	.83006	.82806	.82606	.82407
106	.85507	.85311	.85117	.84924	.84733	.84542	.84352	.84164	.83976	.83790
107	.86958	.86779	.86600	.86422	.86246	.86070	.85895	.85721	.85548	.85376
108	.89422	.89272	.89123	.88974	.88826	.88679	.88533	.88386	.88241	.88096
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

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(f) *Effective/applicability date.* This section applies on or after May 1, 2009.

(g) *Expiration date.* This section expires on or before May 1, 2012.

■ **Par. 6.** The undesignated center heading immediately preceding § 1.642(c)–6A is revised to read as follows:

Pooled Income Fund Actuarial Tables

Applicable Before May 1, 2009

■ **Par. 7.** Section 1.642(c)–6A is amended by:

■ 1. Revising the section heading.

■ 2. Amending newly-designated paragraph (f) as follows:

■ a. Paragraph (f) heading is revised.

■ b. Paragraphs (f)(1), (f)(2), (f)(3), (f)(4), and (f)(5) are revised.

■ c. The introductory text in paragraph (f)(6) and the heading preceding Table S are revised.

■ d. Paragraph (f)(7) is added.

■ The revisions and addition read as follows:

§ 1.642(c)–6A Valuation of charitable remainder interests for which the valuation date is before May 1, 2009.

* * * * *

(f) *Present value of the remainder interest in the case of transfers to pooled income funds for which the valuation date is after April 30, 1999, and before May 1, 2009*—(1) *In general.* In the case of transfers to pooled income funds for which the valuation date is after April 30, 1999, and before May 1, 2009, the present value of a remainder interest is determined under this section. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). The present value of a remainder interest that is dependent on the termination of the life of one individual is computed by the use of Table S in paragraph (f)(6) of this section. For purposes of the computations under this section, the age of an individual is the age at the individual's nearest birthday.

(2) *Transitional rules for valuation of transfers to pooled income funds.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after April 30, 1999, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency after April 30, 1999, the present value of a remainder interest is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 1999, or after April 30, 1999, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a pooled income fund for which the valuation date is after April 30, 1999, and before July 1, 1999, the present value of the remainder interest under this section is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(5) or (f)(6) of this section, at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (f)(2)(i) and (f)(2)(ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(5) or (f)(6) of this section, the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Present value of a remainder interest.* The present value of a remainder interest in property transferred to a pooled income fund is computed on the basis of—

(i) Life contingencies determined from the values of *lx* that are set forth in Table 90CM in § 20.2031–7A(f)(4); and

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. The provisions of § 1.642(c)–6(c) apply for determining the yearly rate of return. However, where the taxable year is less than 12 months, the provisions of § 1.642(c)–6T(e)(3)(ii) apply for the determining the yearly rate of return.

(4) *Pooled income funds in existence less than 3 taxable years.* The provisions of § 1.642(c)–6T(e)(4) apply for determining the highest yearly rate of return when the pooled income fund has been in existence less than 3 taxable years.

(5) *Computation of value of remainder interest.* The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor from Table S in paragraph (f)(6) of this section under the appropriate yearly rate of return opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based. Table S in paragraph (f)(6) of this section includes factors for yearly rates of return from 4.2 to 14 percent. Many actuarial factors not contained in Table S in paragraph (f)(6) of this section are contained in Table S in Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (7–99). Publication 1457 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office. However, pertinent factors in this publication may be obtained by a written request to: CC:PA:LPD:PR (IRS Publication 1457), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. For other situations, see § 1.642(c)–6(b). If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the fair market value of the property on the valuation date by the appropriate remainder factor. For an example of a computation of the present value of a remainder interest requiring a linear interpolation adjustment, see § 1.642(c)–6T(e)(5).

(6) *Actuarial tables.* In the case of transfers for which the valuation date is after April 30, 1999, and before May 1, 2009, the present value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is determined by use of the following tables:

TABLE S.—BASED ON LIFE TABLE 90CM SINGLE LIFE REMAINDER FACTORS

[Applicable After April 30, 1999, and Before May 1, 2009]

* * * * *

(7) *Effective/applicability dates.* Paragraphs (f)(1) through (f)(6) apply after April 30, 1999, and before May 1, 2009.

■ **Par. 8.** Section 1.664–2 is amended by revising paragraph (c) and adding paragraph (e) to read as follows:

§ 1.664–2 Charitable remainder annuity trust.

* * * * *

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder annuity trust.* For purposes of sections 170, 2055, 2106, and 2522, the fair market value of the remainder interest of a charitable

remainder annuity trust (as described in this section) is the net fair market value (as of the appropriate valuation date) of the property placed in trust less the present value of the annuity. For purposes of this section, valuation date means, in general, the date on which the property is transferred to the trust by the donor regardless of when the trust is created. In the case of transfers to a charitable remainder annuity trust for which the valuation date is after April 30, 1999, if an election is made under section 7520 and § 1.7520–2(b) to compute the present value of the charitable interest by use of the interest rate component for either of the 2 months preceding the month in which the transfer is made, the month so elected is the valuation date for purposes of determining the interest rate and mortality tables. For purposes of section 2055 or 2106, the valuation date is the date of death unless the alternate valuation date is elected in accordance with section 2032 in which event, and within the limitations set forth in section 2032 and the regulations thereunder, the valuation date is the alternate valuation date. If the decedent's estate elects the alternate valuation date under section 2032 and also elects, under section 7520 and § 1.7520–2(b), to use the interest rate component for one of the 2 months preceding the alternate valuation date, the month so elected is the valuation date for purposes of determining the interest rate and mortality tables. The present value of an annuity is computed under § 20.2031–7T(d) for transfers for which the valuation date is on or after May 1, 2009, or under § 20.2031–7A(a) through (f), whichever is applicable, for transfers for which the valuation date is before May 1, 2009. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances).

* * * * *

(e) *Effective/applicability date.* Paragraph (c)(1) applies after April 30, 1989.

■ **Par. 9.** Section 1.664–4 is amended as follows:

■ 1. Paragraph (a)(1) is revised.

■ 2. Paragraph (d) is removed.

■ 3. The heading for paragraph (e) is redesignated as the heading for § 1.664–4A(f).

■ 4. Paragraphs (e)(1), (e)(2), (e)(5), and (e)(7) are redesignated as § 1.664–4A(f)(1), (f)(2), (f)(5) and (f)(6), respectively.

■ 5. New paragraphs (d), (e)(1), (e)(2), and (e)(5) are added.

■ 6. The heading and introductory text of paragraph (e)(6), preceding Table D, is revised.

■ 7. New paragraph (e)(7) is added.

■ 8. Paragraph (f) is revised.

The additions and revision read as follows:

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) * * *

(1) [Reserved]. For further guidance, see § 1.664–4T(a)(1).

* * * * *

(d) through (e)(2) [Reserved]. For further guidance, see § 1.664–4T(d) through (e)(2).

* * * * *

(5) [Reserved]. For further guidance, see § 1.664–4T(e)(5).

(6) *Actuarial Table D and F (4.2 through 14.0) for transfers for which the valuation date is after April 30, 1989.* For transfers for which the valuation date is after April 30, 1989, the present value of a charitable remainder unitrust interest that is dependent upon a term of years is determined by using the section 7520 rate and the tables in this paragraph (e)(6). For transfers for which the valuation date is on or after May 1, 2009, where the present value of a charitable remainder unitrust interest is dependent on the termination of a life interest, see § 1.664–4T(e)(5). See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Many actuarial factors not contained in the following tables are contained in Internal Revenue Service Publication 1458, ''Actuarial Valuations Version 3B'' (2009). This publication will be available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov.*

* * * * *

(7) [Reserved]. For further guidance, see § 1.664–4T(e)(7).

(f) *Effective/applicability dates.* This section applies after April 30, 1999, and before May 1, 2009.

■ **Par. 10.** Section 1.664–4T is added to read as follows:

§ 1.664–4T Calculation of the fair market value of the remainder interest in a charitable remainder unitrust (temporary).

(a) [Reserved]. For further guidance, see § 1.664–4(a).

(1) Life contingencies determined as to each life involved, from the values of *lx* set forth in Table 2000CM contained in § 20.2031–7T(d)(7) in the case of transfers for which the valuation date is on or after May 1, 2009; or from Table 90CM contained in § 20.2031–7A(f)(4) in the case of transfer for which the valuation date is after April 30, 1999, and before May 1, 2009. See § 20.2031–7A(a) through (e), whichever is applicable, for transfers for which the valuation date is before May 1, 1999; (a)(2) through (c) [Reserved]. For further guidance, see § 1.664–4(a)(2) through (c).

(d) *Valuation.* The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is on or after May 1, 2009, is its present value determined under paragraph (e) of this section. The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is before *May 1, 2009*, is its present value determined under the following sections:

Valuation dates		Applicable regulations
After	Before	
	01–01–52	1.664–4A(a).
12–31–51	01–01–71	1.664–4A(b).
12–31–70	12–01–83	1.664–4A(c).
11–30–83	05–01–89	1.664–4A(d).
04–30–89	05–01–99	1.664–4A(e).
04–30–99	05–01–09	1.664–4A(f).

(e) *Valuation of charitable remainder unitrusts having certain payout sequences for transfers for which the valuation date is on or after May 1, 2009*—(1) *In general.* Except as otherwise provided in paragraph (e)(2) of this section, in the case of transfers for which the valuation date is on or after May 1, 2009, the present value of

a remainder interest is determined under paragraphs (e)(3) through (e)(7) of this section, provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664–3(a)(1)(v) if the taxable year of the trust were to end on such date. See, however, § 1.7520–3(b) (relating to exceptions to the use of the prescribed tables under certain circumstances).

(2) *Transitional rules for valuation of charitable remainder unitrusts.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 2009, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died on or after May 1, 2009, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency on or after May 1, 2009, the present value of a remainder interest under this section is determined as if the valuation date with respect to the decedent's gross estate is either before or after May 1, 2009, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a charitable remainder unitrust for which the valuation date is on or after May 1, 2009, and before July 1, 2009, the present value of a remainder interest based on one or more measuring lives is determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(7) of this section or § 1.664–4A(f)(6), at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (e)(2)(i) and (e)(2)(ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(7) of this section or § 1.664–4A(f)(6), the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) and (4) [Reserved]. For further guidance, see § 1.664–4(e)(3) and (e)(4).

(5) *Period is the life of one individual.* (i) If the period described in § 1.664–3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is on or after May 1, 2009, is the factor in Table U(1) in paragraph (e)(7) of this section under the appropriate adjusted payout. For purposes of the computations described in this paragraph (e)(5), the age of an individual is the age of that individual at the individual's nearest birthday. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in the appropriate table, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the valuation date as determined in § 1.664–4(e)(4)) of the property placed in trust by the factor determined under this paragraph (e)(5). If the adjusted payout rate is between 4.2 and 14 percent, see paragraph (e)(7) of this section. If the adjusted payout rate is below 4.2 percent or greater than 14 percent, see § 1.664–4(b).

(ii) The application of paragraph (e)(5)(i) of this section may be illustrated by the following example:

Example. A, who is 44 years and 11 months old, transfers $100,000 to a charitable remainder unitrust on January 1st. The trust instrument requires that the trust pay to A semiannually (on June 30 and December 31) 8 percent of the fair market value of the trust assets as of January 1st during A's life. The section 7520 rate for January is 6.6 percent. Under Table F(6.6) in § 1.664–4(e)(6), the appropriate adjustment factor is .953317 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 7.627% (8% × .953317). Based on the remainder factors in Table U(1) in this section, the present value of the remainder interest is $11,075.00, computed as follows:

Factor at 7.6 percent at age 45	.11141
Factor at 7.8 percent at age 45	.10653
Difference	.00488

Interpolation adjustment:

$$\frac{7.627\% - 7.6\%}{0.2\%} = \frac{x}{.00488}$$

$$x = .00066$$

Factor at 7.6 percent at age 45	.11141
Less: Interpolation adjustment	.00066
Interpolated Factor	.11075
Present value of remainder interest:	
($100,000 × .11075)	$11,075.00

(6) [Reserved]. For further guidance, see § 1.664–4(e)(6).

(7) *Actuarial Table U(1) for transfers for which the valuation date is* on or after May 1, 2009. For transfers for which the valuation date is on or after May 1, 2009, the present value of a charitable remainder unitrust interest that is dependent on the termination of a life interest is determined by using the section 7520 rate, Table U(1) in this paragraph (e)(7) and Table F(4.2) through (14.0) in § 1.664–4(e)(6). See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Many actuarial factors not contained in the following tables are contained in Internal Revenue Service Publication 1458, ''Actuarial Valuations Version 3B'' (2009). This publication will be available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov.*

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.05527	.04953	.04455	.04023	.03648	.03321	.03037	.02789	.02573	.02383
1	.05095	.04501	.03986	.03538	.03148	.02809	.02513	.02255	.02029	.01831
2	.05269	.04659	.04128	.03666	.03264	.02913	.02606	.02338	.02103	.01896
3	.05468	.04841	.04295	.03818	.03403	.03040	.02722	.02443	.02199	.01984
4	.05684	.05039	.04477	.03986	.03557	.03181	.02852	.02563	.02309	.02085
5	.05912	.05251	.04672	.04166	.03723	.03335	.02993	.02694	.02429	.02197
6	.06154	.05475	.04880	.04359	.03901	.03500	.03146	.02835	.02561	.02319
7	.06407	.05709	.05097	.04561	.04089	.03673	.03308	.02985	.02700	.02448
8	.06672	.05956	.05328	.04775	.04288	.03859	.03481	.03146	.02850	.02588
9	.06951	.06217	.05571	.05002	.04500	.04057	.03665	.03319	.03012	.02739
10	.07244	.06491	.05827	.05241	.04724	.04266	.03861	.03503	.03184	.02901
11	.07550	.06778	.06096	.05494	.04961	.04489	.04070	.03698	.03368	.03074
12	.07869	.07078	.06378	.05759	.05210	.04723	.04290	.03906	.03563	.03258
13	.08199	.07389	.06670	.06034	.05468	.04966	.04519	.04121	.03767	.03450
14	.08536	.07706	.06969	.06315	.05733	.05215	.04754	.04342	.03975	.03646
15	.08877	.08027	.07271	.06599	.06000	.05467	.04990	.04565	.04184	.03844
16	.09221	.08351	.07576	.06885	.06269	.05719	.05228	.04788	.04394	.04041
17	.09570	.08679	.07885	.07176	.06542	.05975	.05468	.05014	.04606	.04240
18	.09925	.09014	.08199	.07471	.06820	.06236	.05712	.05243	.04821	.04442
19	.10289	.09356	.08522	.07774	.07104	.06503	.05963	.05478	.05041	.04648
20	.10665	.09711	.08856	.08089	.07400	.06781	.06224	.05723	.05272	.04864
21	.11052	.10077	.09201	.08413	.07706	.07068	.06495	.05977	.05510	.05088
22	.11452	.10455	.09558	.08750	.08023	.07367	.06776	.06241	.05759	.05322
23	.11867	.10848	.09929	.09101	.08354	.07680	.07070	.06519	.06019	.05567
24	.12300	.11259	.10319	.09470	.08703	.08009	.07381	.06812	.06297	.05829
25	.12755	.11691	.10730	.09860	.09073	.08359	.07713	.07126	.06593	.06109
26	.13232	.12146	.11163	.10272	.09464	.08731	.08065	.07460	.06910	.06409
27	.13732	.12624	.11619	.10706	.09878	.09125	.08440	.07816	.07248	.06731
28	.14255	.13125	.12098	.11164	.10315	.09542	.08837	.08195	.07609	.07074
29	.14799	.13647	.12598	.11644	.10773	.09980	.09256	.08594	.07990	.07438
30	.15365	.14191	.13120	.12144	.11252	.10438	.09694	.09014	.08391	.07821
31	.15952	.14756	.13664	.12666	.11754	.10919	.10155	.09455	.08813	.08225
32	.16561	.15343	.14230	.13210	.12277	.11422	.10637	.09918	.09257	.08650
33	.17193	.15954	.14819	.13778	.12824	.11948	.11143	.10403	.09724	.09098
34	.17845	.16585	.15429	.14367	.13391	.12495	.11670	.10910	.10211	.09566

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
35	.18520	.17239	.16062	.14979	.13982	.13065	.12219	.11440	.10721	.10057
36	.19218	.17916	.16718	.15614	.14597	.13659	.12793	.11993	.11254	.10571
37	.19938	.18617	.17398	.16274	.15236	.14276	.13390	.12570	.11812	.11110
38	.20683	.19342	.18103	.16958	.15900	.14920	.14013	.13173	.12395	.11673
39	.21450	.20090	.18832	.17667	.16588	.15588	.14661	.13801	.13003	.12261
40	.22241	.20862	.19585	.18400	.17301	.16281	.15334	.14454	.13636	.12875
41	.23055	.21659	.20362	.19158	.18040	.17000	.16033	.15133	.14295	.13514
42	.23892	.22479	.21164	.19942	.18804	.17744	.16757	.15838	.14980	.14180
43	.24756	.23326	.21994	.20753	.19596	.18517	.17511	.16572	.15695	.14875
44	.25644	.24198	.22849	.21590	.20415	.19318	.18293	.17334	.16438	.15599
45	.26557	.25096	.23731	.22455	.21263	.20147	.19103	.18125	.17210	.16352
46	.27496	.26021	.24641	.23349	.22139	.21006	.19943	.18947	.18013	.17136
47	.28460	.26972	.25578	.24270	.23044	.21893	.20813	.19799	.18846	.17951
48	.29451	.27950	.26542	.25220	.23978	.22811	.21714	.20682	.19712	.18798
49	.30468	.28957	.27536	.26201	.24944	.23761	.22648	.21599	.20611	.19679
50	.31515	.29994	.28562	.27214	.25943	.24746	.23617	.22552	.21547	.20598
51	.32591	.31062	.29620	.28260	.26976	.25765	.24621	.23541	.22520	.21554
52	.33697	.32161	.30710	.29340	.28045	.26821	.25663	.24568	.23531	.22550
53	.34832	.33291	.31833	.30453	.29148	.27912	.26741	.25632	.24582	.23585
54	.35995	.34449	.32985	.31598	.30283	.29037	.27855	.26733	.25669	.24658
55	.37183	.35635	.34166	.32773	.31450	.30194	.29001	.27868	.26791	.25768
56	.38390	.36841	.35370	.33971	.32642	.31378	.30175	.29032	.27943	.26907
57	.39618	.38069	.36596	.35194	.33859	.32588	.31377	.30224	.29125	.28077
58	.40862	.39316	.37842	.36438	.35099	.33822	.32605	.31443	.30334	.29276
59	.42126	.40583	.39110	.37705	.36364	.35083	.33859	.32691	.31574	.30506
60	.43410	.41873	.40403	.38999	.37656	.36372	.35145	.33970	.32846	.31770
61	.44714	.43183	.41718	.40316	.38974	.37689	.36458	.35279	.34149	.33067
62	.46033	.44510	.43052	.41653	.40313	.39028	.37796	.36614	.35480	.34391
63	.47366	.45853	.44402	.43010	.41673	.40390	.39157	.37974	.36836	.35744
64	.48712	.47212	.45770	.44385	.43053	.41773	.40542	.39358	.38219	.37123
65	.50073	.48586	.47156	.45779	.44454	.43179	.41951	.40768	.39629	.38531
66	.51461	.49990	.48573	.47207	.45891	.44623	.43400	.42220	.41083	.39985
67	.52872	.51419	.50018	.48665	.47360	.46100	.44884	.43710	.42576	.41481
68	.54302	.52869	.51484	.50147	.48854	.47605	.46398	.45231	.44103	.43011
69	.55744	.54333	.52968	.51648	.50371	.49134	.47938	.46780	.45659	.44573
70	.57198	.55810	.54467	.53165	.51905	.50683	.49500	.48352	.47241	.46163

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
71	.58662	.57300	.55980	.54700	.53458	.52253	.51084	.49950	.48849	.47781
72	.60134	.58800	.57505	.56247	.55026	.53840	.52688	.51569	.50481	.49425
73	.61608	.60303	.59035	.57803	.56604	.55439	.54305	.53203	.52131	.51087
74	.63077	.61804	.60565	.59358	.58184	.57041	.55928	.54844	.53789	.52761
75	.64536	.63295	.62085	.60907	.59759	.58639	.57548	.56485	.55447	.54436
76	.65980	.64772	.63594	.62445	.61323	.60229	.59162	.58120	.57102	.56110
77	.67408	.66234	.65089	.63970	.62877	.61809	.60766	.59747	.58751	.57779
78	.68817	.67679	.66567	.65479	.64416	.63376	.62359	.61364	.60392	.59440
79	.70205	.69104	.68026	.66971	.65938	.64927	.63937	.62968	.62019	.61090
80	.71569	.70504	.69461	.68439	.67438	.66457	.65495	.64553	.63629	.62724
81	.72905	.71878	.70871	.69883	.68914	.67963	.67031	.66116	.65219	.64339
82	.74213	.73224	.72252	.71299	.70363	.69444	.68541	.67655	.66785	.65930
83	.75489	.74538	.73603	.72684	.71781	.70894	.70022	.69165	.68323	.67495
84	.76731	.75818	.74919	.74036	.73167	.72312	.71471	.70644	.69830	.69029
85	.77937	.77062	.76200	.75352	.74516	.73694	.72884	.72087	.71302	.70529
86	.79106	.78268	.77443	.76629	.75828	.75038	.74260	.73493	.72738	.71993
87	.80235	.79434	.78645	.77866	.77098	.76341	.75595	.74858	.74132	.73416
88	.81324	.80560	.79806	.79062	.78328	.77603	.76888	.76182	.75486	.74798
89	.82371	.81643	.80924	.80214	.79513	.78821	.78137	.77461	.76794	.76134
90	.83375	.82682	.81998	.81321	.80653	.79992	.79339	.78693	.78055	.77424
91	.84336	.83678	.83027	.82383	.81747	.81117	.80494	.79878	.79268	.78665
92	.85253	.84629	.84011	.83399	.82794	.82194	.81601	.81014	.80433	.79857
93	.86126	.85534	.84948	.84367	.83792	.83222	.82658	.82099	.81545	.80997
94	.86956	.86395	.85840	.85289	.84743	.84202	.83666	.83134	.82608	.82086
95	.87744	.87213	.86687	.86166	.85648	.85135	.84626	.84122	.83621	.83125
96	.88487	.87985	.87488	.86994	.86504	.86017	.85535	.85056	.84581	.84109
97	.89188	.88714	.88244	.87776	.87312	.86852	.86395	.85941	.85490	.85042
98	.89850	.89402	.88958	.88516	.88077	.87641	.87208	.86778	.86351	.85927
99	.90475	.90053	.89632	.89215	.88800	.88388	.87978	.87571	.87167	.86765
100	.91057	.90658	.90261	.89867	.89475	.89085	.88697	.88312	.87929	.87548
101	.91610	.91234	.90860	.90487	.90117	.89749	.89382	.89018	.88655	.88295
102	.92122	.91767	.91413	.91061	.90711	.90363	.90017	.89672	.89328	.88987
103	.92630	.92296	.91963	.91632	.91303	.90975	.90648	.90323	.89999	.89677
104	.93097	.92783	.92470	.92158	.91847	.91537	.91229	.90922	.90616	.90312
105	.93558	.93263	.92969	.92676	.92383	.92092	.91802	.91513	.91225	.90938
106	.94135	.93864	.93594	.93325	.93057	.92789	.92522	.92256	.91991	.91726
107	.94789	.94546	.94304	.94062	.93821	.93580	.93340	.93101	.92861	.92623
108	.95844	.95648	.95453	.95258	.95063	.94868	.94673	.94478	.94284	.94090
109	.97900	.97800	.97700	.97600	.97500	.97400	.97300	.97200	.97100	.97000

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.02217	.02071	.01942	.01829	.01729	.01640	.01561	.01491	.01429	.01373
1	.01657	.01504	.01369	.01250	.01145	.01053	.00970	.00897	.00831	.00773
2	.01715	.01555	.01415	.01290	.01180	.01082	.00996	.00918	.00850	.00788
3	.01795	.01628	.01481	.01350	.01235	.01132	.01041	.00960	.00887	.00822
4	.01888	.01714	.01560	.01423	.01302	.01194	.01098	.01013	.00936	.00867
5	.01991	.01809	.01648	.01505	.01378	.01265	.01164	.01074	.00993	.00921
6	.02104	.01914	.01746	.01597	.01463	.01345	.01239	.01144	.01059	.00982
7	.02225	.02027	.01851	.01695	.01555	.01430	.01319	.01219	.01130	.01049
8	.02356	.02149	.01965	.01802	.01656	.01525	.01408	.01303	.01209	.01124
9	.02497	.02282	.02090	.01919	.01766	.01629	.01506	.01396	.01296	.01207
10	.02649	.02425	.02224	.02046	.01885	.01742	.01613	.01497	.01392	.01298
11	.02812	.02578	.02369	.02182	.02015	.01865	.01729	.01608	.01498	.01398
12	.02986	.02742	.02525	.02329	.02154	.01997	.01855	.01727	.01612	.01508
13	.03167	.02914	.02687	.02483	.02300	.02135	.01987	.01853	.01732	.01622
14	.03352	.03089	.02852	.02640	.02449	.02276	.02121	.01981	.01854	.01738
15	.03538	.03264	.03018	.02797	.02597	.02417	.02255	.02107	.01974	.01853
16	.03724	.03439	.03183	.02952	.02744	.02556	.02385	.02231	.02092	.01965
17	.03911	.03615	.03348	.03107	.02890	.02694	.02516	.02354	.02208	.02075
18	.04100	.03792	.03515	.03264	.03037	.02832	.02646	.02477	.02323	.02184
19	.04294	.03974	.03685	.03424	.03188	.02973	.02778	.02602	.02441	.02294
20	.04497	.04165	.03864	.03592	.03345	.03121	.02918	.02732	.02564	.02410
21	.04707	.04362	.04049	.03766	.03508	.03275	.03062	.02868	.02691	.02530
22	.04926	.04568	.04243	.03948	.03679	.03435	.03212	.03009	.02824	.02655
23	.05157	.04785	.04447	.04140	.03860	.03605	.03372	.03160	.02965	.02788
24	.05404	.05017	.04666	.04346	.04054	.03788	.03545	.03322	.03119	.02932
25	.05668	.05268	.04902	.04569	.04265	.03987	.03733	.03500	.03287	.03091
26	.05953	.05537	.05157	.04811	.04494	.04204	.03938	.03695	.03472	.03267
27	.06258	.05827	.05433	.05072	.04742	.04440	.04163	.03908	.03674	.03459
28	.06585	.06138	.05729	.05354	.05011	.04695	.04406	.04140	.03895	.03670
29	.06932	.06469	.06044	.05655	.05297	.04969	.04667	.04389	.04132	.03896
30	.07298	.06818	.06378	.05974	.05602	.05260	.04944	.04654	.04386	.04139
31	.07684	.07188	.06732	.06312	.05925	.05569	.05241	.04937	.04657	.04399
32	.08092	.07578	.07106	.06670	.06268	.05898	.05556	.05239	.04947	.04676
33	.08522	.07991	.07501	.07050	.06633	.06247	.05891	.05561	.05256	.04972
34	.08972	.08423	.07917	.07449	.07016	.06615	.06244	.05901	.05582	.05286

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
35	.09444	.08878	.08354	.07869	.07420	.07004	.06618	.06260	.05928	.05619
36	.09940	.09355	.08814	.08312	.07846	.07415	.07013	.06641	.06294	.05972
37	.10459	.09856	.09297	.08777	.08295	.07847	.07431	.07043	.06682	.06346
38	.11004	.10382	.09805	.09268	.08769	.08304	.07872	.07469	.07093	.06742
39	.11573	.10932	.10337	.09782	.09266	.08784	.08336	.07917	.07526	.07161
40	.12167	.11508	.10893	.10321	.09787	.09289	.08824	.08389	.07982	.07602
41	.12787	.12109	.11476	.10885	.10334	.09818	.09336	.08885	.08463	.08068
42	.13433	.12736	.12085	.11476	.10906	.10373	.09874	.09406	.08968	.08557
43	.14109	.13393	.12723	.12095	.11508	.10957	.10441	.09957	.09502	.09075
44	.14814	.14078	.13389	.12744	.12138	.11569	.11036	.10534	.10063	.09620
45	.15548	.14793	.14086	.13421	.12797	.12211	.11659	.11141	.10653	.10193
46	.16313	.15540	.14814	.14131	.13488	.12884	.12315	.11779	.11274	.10798
47	.17109	.16318	.15573	.14871	.14210	.13588	.13001	.12448	.11925	.11432
48	.17938	.17128	.16364	.15645	.14966	.14325	.13721	.13150	.12610	.12100
49	.18801	.17973	.17191	.16453	.15756	.15098	.14475	.13887	.13330	.12803
50	.19702	.18856	.18057	.17301	.16586	.15910	.15270	.14663	.14089	.13545
51	.20642	.19778	.18961	.18188	.17456	.16762	.16104	.15480	.14889	.14328
52	.21621	.20741	.19907	.19117	.18367	.17656	.16981	.16340	.15732	.15153
53	.22641	.21745	.20894	.20087	.19321	.18593	.17901	.17243	.16617	.16022
54	.23699	.22788	.21922	.21098	.20316	.19571	.18862	.18188	.17546	.16934
55	.24794	.23868	.22987	.22148	.21350	.20589	.19865	.19174	.18516	.17888
56	.25920	.24981	.24085	.23232	.22418	.21642	.20902	.20195	.19521	.18877
57	.27078	.26126	.25217	.24349	.23521	.22730	.21975	.21253	.20563	.19904
58	.28266	.27301	.26379	.25498	.24656	.23851	.23081	.22345	.21640	.20965
59	.29486	.28510	.27576	.26682	.25827	.25009	.24225	.23474	.22755	.22065
60	.30740	.29754	.28810	.27905	.27037	.26206	.25409	.24645	.23911	.23208
61	.32029	.31033	.30079	.29164	.28285	.27442	.26632	.25855	.25109	.24391
62	.33347	.32344	.31381	.30455	.29567	.28712	.27891	.27102	.26343	.25613
63	.34693	.33684	.32713	.31779	.30881	.30017	.29185	.28385	.27614	.26872
64	.36069	.35054	.34076	.33135	.32229	.31356	.30515	.29704	.28922	.28169
65	.37474	.36455	.35472	.34525	.33612	.32731	.31881	.31061	.30270	.29506
66	.38927	.37905	.36919	.35968	.35049	.34161	.33304	.32476	.31676	.30903
67	.40423	.39401	.38413	.37458	.36535	.35643	.34780	.33946	.33138	.32357
68	.41956	.40935	.39947	.38991	.38066	.37170	.36303	.35464	.34650	.33863
69	.43522	.42504	.41518	.40562	.39636	.38739	.37869	.37026	.36208	.35415
70	.45118	.44104	.43121	.42168	.41243	.40346	.39475	.38629	.37809	.37012

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
71	.46744	.45737	.44759	.43810	.42888	.41992	.41122	.40276	.39455	.38656
72	.48398	.47399	.46429	.45486	.44568	.43676	.42808	.41964	.41143	.40344
73	.50072	.49084	.48123	.47187	.46276	.45389	.44526	.43685	.42866	.42068
74	.51759	.50784	.49833	.48907	.48004	.47124	.46267	.45431	.44616	.43821
75	.53450	.52488	.51550	.50635	.49743	.48872	.48022	.47192	.46383	.45592
76	.55140	.54194	.53270	.52368	.51487	.50626	.49785	.48964	.48161	.47377
77	.56828	.55898	.54990	.54102	.53234	.52385	.51555	.50744	.49950	.49173
78	.58509	.57598	.56707	.55835	.54981	.54146	.53328	.52528	.51744	.50977
79	.60181	.59290	.58417	.57562	.56725	.55904	.55100	.54313	.53541	.52785
80	.61837	.60967	.60114	.59278	.58458	.57653	.56865	.56091	.55333	.54589
81	.63475	.62627	.61795	.60979	.60177	.59391	.58619	.57861	.57117	.56386
82	.65091	.64267	.63457	.62661	.61880	.61112	.60358	.59617	.58888	.58173
83	.66681	.65881	.65094	.64321	.63560	.62812	.62077	.61353	.60642	.59942
84	.68241	.67466	.66703	.65952	.65214	.64487	.63771	.63067	.62373	.61691
85	.69768	.69019	.68280	.67553	.66837	.66132	.65437	.64753	.64078	.63414
86	.71259	.70536	.69822	.69120	.68427	.67744	.67070	.66406	.65752	.65107
87	.72709	.72012	.71325	.70647	.69977	.69317	.68666	.68023	.67389	.66764
88	.74119	.73449	.72787	.72134	.71489	.70852	.70223	.69602	.68989	.68384
89	.75483	.74840	.74204	.73576	.72955	.72342	.71736	.71138	.70546	.69962
90	.76800	.76183	.75573	.74971	.74375	.73785	.73202	.72626	.72056	.71493
91	.78069	.77479	.76895	.76317	.75745	.75180	.74620	.74067	.73519	.72977
92	.79288	.78724	.78165	.77613	.77065	.76524	.75987	.75456	.74930	.74409
93	.80453	.79915	.79382	.78854	.78331	.77812	.77299	.76790	.76286	.75787
94	.81568	.81055	.80547	.80043	.79544	.79048	.78557	.78071	.77588	.77110
95	.82633	.82144	.81660	.81180	.80704	.80231	.79763	.79298	.78837	.78380
96	.83642	.83177	.82717	.82259	.81806	.81356	.80909	.80465	.80025	.79588
97	.84598	.84157	.83719	.83284	.82853	.82424	.81998	.81576	.81156	.80739
98	.85505	.85086	.84670	.84257	.83847	.83439	.83034	.82631	.82232	.81835
99	.86365	.85968	.85573	.85181	.84791	.84404	.84019	.83636	.83255	.82877
100	.87169	.86792	.86418	.86045	.85675	.85307	.84941	.84577	.84215	.83855
101	.87936	.87579	.87224	.86871	.86520	.86171	.85823	.85477	.85133	.84791
102	.88647	.88309	.87972	.87637	.87304	.86972	.86642	.86313	.85986	.85660
103	.89356	.89036	.88718	.88402	.88086	.87772	.87460	.87149	.86839	.86531
104	.90008	.89706	.89405	.89105	.88807	.88509	.88213	.87918	.87624	.87331
105	.90652	.90366	.90082	.89799	.89517	.89236	.88955	.88676	.88398	.88120
106	.91462	.91199	.90937	.90675	.90414	.90154	.89895	.89636	.89378	.89121
107	.92385	.92147	.91910	.91673	.91437	.91201	.90966	.90731	.90497	.90263
108	.93896	.93702	.93509	.93316	.93123	.92930	.92737	.92544	.92352	.92160
109	.96900	.96800	.96700	.96600	.96500	.96400	.96300	.96200	.96100	.96000

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01323	.01279	.01238	.01202	.01169	.01139	.01112	.01088	.01065	.01044
1	.00721	.00674	.00632	.00594	.00559	.00528	.00500	.00474	.00451	.00430
2	.00733	.00683	.00639	.00598	.00562	.00529	.00499	.00472	.00447	.00425
3	.00764	.00711	.00664	.00622	.00583	.00548	.00516	.00487	.00461	.00437
4	.00806	.00750	.00700	.00655	.00614	.00577	.00543	.00513	.00485	.00459
5	.00856	.00797	.00744	.00696	.00653	.00614	.00578	.00545	.00515	.00488
6	.00914	.00852	.00795	.00745	.00699	.00657	.00619	.00584	.00552	.00523
7	.00976	.00911	.00851	.00798	.00749	.00704	.00664	.00627	.00593	.00562
8	.01047	.00978	.00915	.00858	.00806	.00759	.00716	.00677	.00640	.00607
9	.01126	.01053	.00986	.00926	.00871	.00821	.00775	.00734	.00695	.00660
10	.01213	.01136	.01065	.01002	.00944	.00891	.00842	.00798	.00757	.00720
11	.01309	.01227	.01153	.01086	.01024	.00968	.00917	.00870	.00827	.00787
12	.01413	.01327	.01249	.01178	.01113	.01054	.00999	.00950	.00904	.00862
13	.01523	.01432	.01350	.01275	.01206	.01144	.01086	.01034	.00985	.00940
14	.01634	.01539	.01452	.01373	.01301	.01235	.01174	.01118	.01067	.01020
15	.01743	.01643	.01552	.01469	.01393	.01323	.01259	.01200	.01146	.01096
16	.01849	.01744	.01648	.01561	.01480	.01407	.01339	.01277	.01220	.01167
17	.01953	.01843	.01742	.01650	.01565	.01488	.01416	.01351	.01290	.01235
18	.02056	.01940	.01834	.01737	.01648	.01566	.01491	.01422	.01358	.01299
19	.02160	.02038	.01927	.01824	.01730	.01644	.01565	.01492	.01424	.01362
20	.02270	.02141	.02024	.01916	.01817	.01726	.01642	.01565	.01494	.01428
21	.02382	.02247	.02124	.02010	.01906	.01810	.01721	.01640	.01565	.01495
22	.02500	.02358	.02228	.02108	.01998	.01897	.01803	.01717	.01638	.01564
23	.02625	.02476	.02339	.02213	.02097	.01990	.01891	.01800	.01716	.01638
24	.02761	.02604	.02460	.02327	.02205	.02092	.01988	.01891	.01802	.01719
25	.02912	.02747	.02595	.02455	.02326	.02206	.02096	.01994	.01900	.01812
26	.03078	.02904	.02744	.02597	.02461	.02335	.02218	.02110	.02010	.01917
27	.03261	.03079	.02910	.02755	.02611	.02478	.02355	.02241	.02135	.02037
28	.03462	.03270	.03093	.02929	.02778	.02637	.02507	.02387	.02274	.02170
29	.03678	.03477	.03291	.03118	.02959	.02811	.02673	.02546	.02427	.02316
30	.03910	.03699	.03503	.03322	.03154	.02997	.02852	.02717	.02592	.02475
31	.04159	.03937	.03731	.03541	.03364	.03199	.03046	.02903	.02770	.02646
32	.04425	.04192	.03976	.03776	.03589	.03416	.03254	.03104	.02963	.02832
33	.04710	.04466	.04239	.04029	.03832	.03650	.03479	.03320	.03172	.03033
34	.05011	.04756	.04518	.04297	.04090	.03898	.03718	.03551	.03394	.03247

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
35	.05331	.05064	.04815	.04582	.04366	.04163	.03974	.03798	.03632	.03477
36	.05671	.05391	.05130	.04887	.04659	.04446	.04247	.04061	.03887	.03723
37	.06032	.05739	.05466	.05210	.04972	.04748	.04539	.04343	.04159	.03986
38	.06415	.06109	.05823	.05556	.05305	.05070	.04850	.04644	.04450	.04268
39	.06819	.06500	.06201	.05921	.05658	.05412	.05181	.04964	.04760	.04568
40	.07246	.06913	.06601	.06308	.06033	.05774	.05532	.05304	.05089	.04887
41	.07697	.07349	.07023	.06717	.06429	.06158	.05904	.05664	.05439	.05226
42	.08171	.07809	.07469	.07149	.06848	.06564	.06298	.06046	.05809	.05585
43	.08674	.08297	.07942	.07608	.07293	.06997	.06717	.06453	.06204	.05969
44	.09203	.08810	.08441	.08092	.07764	.07454	.07161	.06885	.06624	.06377
45	.09760	.09352	.08967	.08604	.08261	.07938	.07632	.07342	.07068	.06809
46	.10348	.09925	.09524	.09146	.08789	.08451	.08131	.07828	.07542	.07270
47	.10967	.10527	.10111	.09717	.09345	.08992	.08659	.08342	.08042	.07757
48	.11618	.11161	.10730	.10321	.09933	.09566	.09217	.08887	.08573	.08275
49	.12304	.11831	.11383	.10958	.10555	.10173	.09810	.09465	.09137	.08825
50	.13029	.12540	.12076	.11635	.11216	.10818	.10440	.10081	.09739	.09413
51	.13795	.13289	.12808	.12351	.11917	.11504	.11110	.10736	.10379	.10040
52	.14604	.14081	.13584	.13111	.12661	.12232	.11823	.11434	.11062	.10708
53	.15456	.14917	.14404	.13914	.13448	.13004	.12580	.12175	.11789	.11420
54	.16352	.15796	.15266	.14761	.14279	.13819	.13379	.12959	.12558	.12175
55	.17289	.16717	.16171	.15650	.15152	.14676	.14221	.13786	.13370	.12971
56	.18262	.17674	.17113	.16576	.16062	.15570	.15100	.14650	.14218	.13805
57	.19273	.18669	.18092	.17539	.17010	.16503	.16017	.15552	.15105	.14677
58	.20319	.19700	.19107	.18539	.17994	.17472	.16971	.16490	.16029	.15586
59	.21404	.20770	.20162	.19579	.19019	.18481	.17965	.17470	.16993	.16535
60	.22532	.21884	.21261	.20663	.20088	.19536	.19005	.18494	.18003	.17530
61	.23702	.23040	.22403	.21790	.21201	.20634	.20089	.19564	.19058	.18571
62	.24911	.24235	.23584	.22958	.22355	.21774	.21214	.20674	.20154	.19653
63	.26157	.25468	.24805	.24165	.23548	.22954	.22380	.21827	.21293	.20777
64	.27442	.26742	.26065	.25413	.24783	.24175	.23588	.23021	.22474	.21944
65	.28768	.28056	.27368	.26703	.26061	.25441	.24841	.24261	.23700	.23158
66	.30156	.29433	.28735	.28059	.27405	.26773	.26161	.25569	.24995	.24440
67	.31601	.30870	.30161	.29476	.28812	.28169	.27545	.26942	.26357	.25790
68	.33100	.32360	.31643	.30949	.30275	.29622	.28989	.28375	.27779	.27201
69	.34646	.33900	.33177	.32474	.31793	.31131	.30489	.29865	.29259	.28671
70	.36239	.35488	.34758	.34049	.33361	.32692	.32041	.31409	.30795	.30197

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
71	.37880	.37125	.36391	.35677	.34983	.34308	.33651	.33011	.32389	.31784
72	.39566	.38809	.38073	.37355	.36657	.35977	.35315	.34670	.34041	.33429
73	.41291	.40534	.39796	.39077	.38376	.37693	.37027	.36377	.35744	.35126
74	.43046	.42290	.41552	.40833	.40131	.39446	.38778	.38125	.37489	.36867
75	.44821	.44068	.43332	.42614	.41913	.41227	.40558	.39904	.39266	.38641
76	.46611	.45862	.45130	.44415	.43715	.43031	.42363	.41709	.41069	.40444
77	.48414	.47671	.46944	.46233	.45537	.44856	.44189	.43536	.42898	.42272
78	.50226	.49490	.48770	.48065	.47374	.46697	.46034	.45384	.44747	.44123
79	.52043	.51317	.50604	.49906	.49222	.48551	.47892	.47247	.46614	.45993
80	.53859	.53142	.52440	.51750	.51074	.50410	.49758	.49118	.48491	.47874
81	.55669	.54964	.54273	.53593	.52926	.52271	.51627	.50995	.50373	.49763
82	.57469	.56778	.56099	.55431	.54774	.54129	.53494	.52871	.52257	.51654
83	.59254	.58577	.57911	.57256	.56612	.55978	.55354	.54740	.54136	.53541
84	.61019	.60358	.59706	.59065	.58434	.57812	.57200	.56597	.56003	.55419
85	.62759	.62114	.61479	.60853	.60236	.59628	.59028	.58438	.57856	.57282
86	.64470	.63843	.63224	.62614	.62012	.61419	.60833	.60256	.59687	.59125
87	.66146	.65537	.64936	.64342	.63757	.63179	.62608	.62045	.61489	.60941
88	.67786	.67196	.66613	.66037	.65469	.64907	.64352	.63804	.63263	.62728
89	.69384	.68813	.68249	.67691	.67140	.66595	.66057	.65525	.64999	.64479
90	.70936	.70385	.69840	.69301	.68768	.68241	.67719	.67204	.66693	.66189
91	.72440	.71909	.71384	.70864	.70349	.69840	.69336	.68837	.68344	.67855
92	.73894	.73383	.72878	.72377	.71881	.71390	.70904	.70422	.69945	.69473
93	.75292	.74801	.74316	.73834	.73357	.72885	.72416	.71952	.71492	.71037
94	.76636	.76166	.75700	.75238	.74780	.74326	.73876	.73429	.72986	.72547
95	.77926	.77476	.77030	.76587	.76148	.75712	.75280	.74851	.74426	.74004
96	.79155	.78725	.78298	.77874	.77453	.77036	.76622	.76210	.75802	.75397
97	.80325	.79915	.79507	.79101	.78699	.78300	.77903	.77509	.77117	.76729
98	.81440	.81048	.80659	.80272	.79887	.79505	.79126	.78749	.78375	.78002
99	.82502	.82128	.81757	.81388	.81021	.80656	.80294	.79934	.79576	.79220
100	.83497	.83141	.82788	.82436	.82086	.81738	.81392	.81048	.80706	.80365
101	.84451	.84112	.83776	.83441	.83107	.82776	.82446	.82117	.81791	.81466
102	.85337	.85014	.84693	.84374	.84056	.83740	.83425	.83112	.82800	.82490
103	.86223	.85918	.85613	.85310	.85008	.84708	.84409	.84111	.83814	.83519
104	.87040	.86749	.86460	.86172	.85885	.85599	.85314	.85030	.84748	.84466
105	.87844	.87568	.87294	.87020	.86748	.86476	.86205	.85935	.85666	.85398
106	.88865	.88609	.88354	.88100	.87846	.87594	.87341	.87090	.86839	.86590
107	.90030	.89797	.89565	.89333	.89102	.88871	.88641	.88411	.88181	.87952
108	.91968	.91776	.91585	.91394	.91203	.91012	.90821	.90630	.90440	.90250
109	.95900	.95800	.95700	.95600	.95500	.95400	.95300	.95200	.95100	.95000

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01025	.01008	.00992	.00977	.00963	.00950	.00938	.00927	.00917	.00907
1	.00410	.00392	.00376	.00361	.00347	.00334	.00322	.00310	.00300	.00290
2	.00404	.00385	.00367	.00351	.00336	.00322	.00310	.00298	.00287	.00276
3	.00415	.00394	.00376	.00359	.00343	.00328	.00314	.00301	.00290	.00279
4	.00435	.00414	.00394	.00375	.00358	.00342	.00328	.00314	.00302	.00290
5	.00463	.00439	.00418	.00398	.00380	.00363	.00348	.00333	.00319	.00307
6	.00496	.00471	.00448	.00427	.00408	.00390	.00373	.00357	.00343	.00329
7	.00533	.00507	.00483	.00460	.00439	.00420	.00402	.00385	.00369	.00355
8	.00577	.00549	.00523	.00499	.00476	.00456	.00436	.00418	.00402	.00386
9	.00627	.00598	.00570	.00544	.00520	.00498	.00478	.00458	.00440	.00423
10	.00685	.00653	.00624	.00596	.00571	.00547	.00525	.00505	.00485	.00467
11	.00750	.00716	.00685	.00656	.00629	.00603	.00580	.00558	.00537	.00518
12	.00823	.00787	.00753	.00722	.00693	.00667	.00642	.00618	.00596	.00576
13	.00899	.00861	.00826	.00793	.00762	.00734	.00707	.00682	.00659	.00637
14	.00976	.00935	.00898	.00863	.00831	.00801	.00772	.00746	.00722	.00698
15	.01050	.01007	.00967	.00931	.00896	.00864	.00835	.00807	.00781	.00756
16	.01118	.01073	.01031	.00992	.00956	.00922	.00891	.00861	.00834	.00808
17	.01183	.01135	.01091	.01050	.01011	.00976	.00942	.00911	.00882	.00855
18	.01244	.01194	.01147	.01104	.01063	.01025	.00990	.00957	.00926	.00897
19	.01304	.01251	.01202	.01156	.01113	.01073	.01035	.01001	.00968	.00937
20	.01367	.01311	.01258	.01209	.01164	.01122	.01082	.01045	.01011	.00978
21	.01430	.01371	.01315	.01263	.01215	.01171	.01129	.01090	.01053	.01019
22	.01496	.01432	.01373	.01319	.01268	.01220	.01176	.01134	.01095	.01059
23	.01565	.01498	.01436	.01377	.01323	.01273	.01225	.01181	.01140	.01101
24	.01642	.01571	.01505	.01443	.01386	.01332	.01282	.01235	.01191	.01149
25	.01731	.01655	.01585	.01519	.01458	.01401	.01347	.01297	.01250	.01206
26	.01831	.01751	.01676	.01606	.01541	.01480	.01423	.01370	.01320	.01273
27	.01945	.01860	.01780	.01706	.01637	.01572	.01511	.01454	.01401	.01351
28	.02073	.01982	.01898	.01819	.01745	.01676	.01611	.01551	.01494	.01440
29	.02213	.02117	.02027	.01943	.01865	.01791	.01722	.01658	.01597	.01540
30	.02365	.02263	.02168	.02079	.01995	.01917	.01844	.01775	.01710	.01649
31	.02531	.02422	.02321	.02226	.02138	.02054	.01976	.01902	.01833	.01768
32	.02709	.02595	.02487	.02387	.02292	.02204	.02120	.02042	.01968	.01899
33	.02903	.02782	.02668	.02561	.02461	.02366	.02278	.02194	.02116	.02041
34	.03110	.02981	.02860	.02747	.02640	.02540	.02446	.02357	.02273	.02194

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
35	.03332	.03195	.03067	.02947	.02834	.02728	.02627	.02533	.02444	.02359
36	.03569	.03425	.03290	.03162	.03042	.02929	.02823	.02722	.02627	.02537
37	.03824	.03671	.03528	.03393	.03266	.03146	.03032	.02925	.02824	.02729
38	.04097	.03936	.03784	.03641	.03506	.03379	.03259	.03145	.03037	.02936
39	.04387	.04217	.04057	.03905	.03763	.03628	.03500	.03380	.03265	.03157
40	.04696	.04517	.04347	.04187	.04036	.03893	.03758	.03630	.03509	.03394
41	.05025	.04836	.04657	.04488	.04328	.04177	.04034	.03898	.03769	.03647
42	.05374	.05174	.04986	.04807	.04638	.04478	.04326	.04183	.04046	.03917
43	.05747	.05537	.05338	.05150	.04971	.04802	.04641	.04489	.04344	.04207
44	.06143	.05922	.05712	.05514	.05325	.05147	.04977	.04816	.04663	.04517
45	.06564	.06331	.06111	.05901	.05703	.05514	.05335	.05164	.05002	.04848
46	.07012	.06768	.06536	.06315	.06106	.05907	.05718	.05538	.05366	.05203
47	.07487	.07231	.06987	.06755	.06535	.06325	.06125	.05935	.05754	.05581
48	.07992	.07723	.07467	.07223	.06991	.06770	.06560	.06359	.06168	.05985
49	.08529	.08247	.07978	.07722	.07479	.07246	.07024	.06813	.06611	.06418
50	.09103	.08808	.08526	.08258	.08002	.07757	.07524	.07301	.07088	.06885
51	.09716	.09407	.09112	.08831	.08562	.08306	.08060	.07826	.07601	.07387
52	.10370	.10047	.09739	.09445	.09163	.08894	.08637	.08390	.08154	.07928
53	.11068	.10731	.10409	.10101	.09806	.09524	.09254	.08996	.08748	.08510
54	.11808	.11457	.11121	.10800	.10492	.10197	.09914	.09642	.09382	.09133
55	.12590	.12225	.11875	.11540	.11218	.10910	.10614	.10330	.10057	.09795
56	.13409	.13029	.12665	.12316	.11981	.11659	.11350	.11053	.10768	.10493
57	.14266	.13872	.13494	.13130	.12781	.12446	.12123	.11813	.11515	.11228
58	.15160	.14751	.14359	.13981	.13618	.13269	.12933	.12609	.12298	.11998
59	.16095	.15672	.15264	.14873	.14495	.14132	.13783	.13446	.13121	.12808
60	.17076	.16638	.16216	.15810	.15419	.15042	.14678	.14328	.13990	.13663
61	.18101	.17649	.17213	.16793	.16388	.15997	.15619	.15255	.14904	.14564
62	.19169	.18703	.18253	.17818	.17399	.16994	.16603	.16225	.15860	.15507
63	.20279	.19799	.19335	.18886	.18453	.18034	.17629	.17238	.16859	.16493
64	.21433	.20939	.20461	.19998	.19551	.19119	.18700	.18295	.17903	.17523
65	.22633	.22125	.21633	.21158	.20697	.20251	.19819	.19400	.18994	.18601
66	.23903	.23382	.22877	.22388	.21914	.21455	.21010	.20578	.20159	.19752
67	.25240	.24707	.24190	.23688	.23202	.22730	.22271	.21827	.21395	.20975
68	.26640	.26095	.25566	.25053	.24554	.24070	.23600	.23143	.22698	.22267
69	.28099	.27544	.27004	.26480	.25970	.25474	.24992	.24523	.24067	.23623
70	.29616	.29051	.28501	.27966	.27446	.26939	.26446	.25966	.25499	.25044

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
71	.31194	.30620	.30062	.29517	.28987	.28471	.27968	.27478	.27000	.26534
72	.32833	.32251	.31684	.31132	.30593	.30068	.29556	.29057	.28569	.28094
73	.34524	.33936	.33363	.32804	.32258	.31725	.31205	.30697	.30201	.29717
74	.36260	.35667	.35089	.34523	.33971	.33432	.32905	.32390	.31887	.31395
75	.38031	.37435	.36852	.36282	.35725	.35180	.34647	.34126	.33617	.33118
76	.39832	.39233	.38647	.38074	.37513	.36964	.36427	.35901	.35386	.34882
77	.41660	.41060	.40473	.39898	.39335	.38783	.38242	.37713	.37194	.36685
78	.43512	.42913	.42326	.41750	.41186	.40632	.40090	.39558	.39036	.38524
79	.45384	.44787	.44201	.43626	.43062	.42509	.41966	.41432	.40909	.40396
80	.47269	.46675	.46092	.45519	.44957	.44404	.43862	.43329	.42806	.42291
81	.49163	.48574	.47994	.47425	.46866	.46316	.45775	.45244	.44722	.44208
82	.51061	.50478	.49904	.49340	.48784	.48238	.47701	.47173	.46653	.46141
83	.52956	.52380	.51813	.51255	.50705	.50165	.49632	.49108	.48592	.48083
84	.54843	.54275	.53716	.53166	.52623	.52089	.51562	.51044	.50532	.50029
85	.56716	.56159	.55609	.55067	.54533	.54006	.53487	.52975	.52470	.51972
86	.58571	.58024	.57485	.56953	.56428	.55910	.55399	.54894	.54397	.53906
87	.60399	.59864	.59337	.58815	.58301	.57793	.57291	.56795	.56306	.55823
88	.62200	.61678	.61162	.60653	.60150	.59653	.59161	.58676	.58196	.57722
89	.63965	.63457	.62954	.62458	.61967	.61481	.61001	.60526	.60057	.59593
90	.65690	.65196	.64707	.64224	.63746	.63273	.62805	.62342	.61884	.61431
91	.67371	.66892	.66418	.65949	.65485	.65025	.64570	.64119	.63673	.63231
92	.69005	.68542	.68083	.67628	.67178	.66732	.66290	.65852	.65419	.64989
93	.70585	.70137	.69694	.69254	.68819	.68387	.67959	.67534	.67114	.66697
94	.72112	.71681	.71253	.70828	.70407	.69990	.69576	.69166	.68759	.68355
95	.73585	.73170	.72758	.72349	.71943	.71541	.71141	.70745	.70352	.69961
96	.74995	.74595	.74199	.73806	.73415	.73027	.72642	.72260	.71881	.71505
97	.76343	.75960	.75579	.75201	.74826	.74453	.74083	.73715	.73350	.72987
98	.77633	.77265	.76900	.76538	.76177	.75819	.75463	.75110	.74759	.74410
99	.78866	.78514	.78165	.77817	.77472	.77129	.76787	.76448	.76111	.75775
100	.80027	.79690	.79356	.79023	.78692	.78363	.78036	.77710	.77386	.77065
101	.81143	.80821	.80502	.80183	.79867	.79552	.79239	.78927	.78617	.78308
102	.82181	.81874	.81568	.81264	.80961	.80659	.80359	.80060	.79763	.79467
103	.83225	.82933	.82641	.82351	.82062	.81774	.81488	.81203	.80919	.80636
104	.84186	.83907	.83629	.83351	.83076	.82801	.82527	.82254	.81982	.81712
105	.85131	.84865	.84600	.84336	.84072	.83810	.83548	.83288	.83028	.82769
106	.86340	.86092	.85844	.85597	.85351	.85105	.84860	.84616	.84372	.84130
107	.87724	.87496	.87268	.87041	.86815	.86589	.86363	.86138	.85914	.85690
108	.90060	.89870	.89681	.89492	.89303	.89114	.88925	.88736	.88548	.88360
109	.94900	.94800	.94700	.94600	.94500	.94400	.94300	.94200	.94100	.94000

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.00898	.00889	.00881	.00873	.00866	.00859	.00853	.00846	.00840	.00835
1	.00281	.00273	.00265	.00257	.00250	.00244	.00237	.00232	.00226	.00221
2	.00267	.00258	.00249	.00241	.00234	.00227	.00220	.00214	.00208	.00202
3	.00268	.00259	.00249	.00241	.00233	.00225	.00218	.00212	.00205	.00199
4	.00279	.00268	.00258	.00249	.00241	.00233	.00225	.00218	.00211	.00205
5	.00295	.00284	.00273	.00263	.00254	.00245	.00237	.00229	.00222	.00215
6	.00316	.00304	.00293	.00283	.00273	.00263	.00254	.00246	.00238	.00230
7	.00341	.00328	.00316	.00305	.00294	.00284	.00274	.00265	.00256	.00248
8	.00371	.00357	.00344	.00332	.00320	.00310	.00299	.00289	.00280	.00271
9	.00408	.00393	.00379	.00366	.00353	.00341	.00330	.00320	.00310	.00300
10	.00450	.00434	.00419	.00405	.00392	.00379	.00367	.00356	.00345	.00335
11	.00500	.00483	.00467	.00452	.00438	.00424	.00411	.00399	.00387	.00376
12	.00557	.00538	.00521	.00505	.00490	.00476	.00462	.00449	.00436	.00425
13	.00617	.00597	.00579	.00562	.00546	.00531	.00516	.00502	.00489	.00477
14	.00677	.00656	.00637	.00619	.00602	.00585	.00570	.00555	.00541	.00528
15	.00733	.00712	.00691	.00672	.00654	.00636	.00620	.00605	.00590	.00576
16	.00784	.00761	.00739	.00719	.00700	.00681	.00664	.00648	.00632	.00618
17	.00829	.00805	.00782	.00761	.00741	.00721	.00703	.00686	.00670	.00654
18	.00870	.00845	.00821	.00798	.00777	.00756	.00737	.00719	.00702	.00685
19	.00909	.00882	.00856	.00832	.00810	.00788	.00768	.00749	.00731	.00713
20	.00948	.00919	.00892	.00867	.00843	.00821	.00799	.00779	.00760	.00741
21	.00986	.00956	.00927	.00901	.00875	.00851	.00829	.00807	.00787	.00767
22	.01024	.00992	.00962	.00933	.00906	.00881	.00857	.00834	.00813	.00792
23	.01065	.01030	.00998	.00968	.00939	.00912	.00887	.00862	.00839	.00818
24	.01110	.01074	.01040	.01007	.00977	.00948	.00921	.00895	.00870	.00847
25	.01165	.01126	.01089	.01055	.01022	.00991	.00962	.00934	.00908	.00884
26	.01228	.01187	.01148	.01111	.01076	.01043	.01012	.00982	.00955	.00928
27	.01303	.01259	.01217	.01178	.01140	.01105	.01072	.01040	.01010	.00982
28	.01390	.01342	.01297	.01255	.01215	.01178	.01142	.01108	.01076	.01046
29	.01486	.01435	.01387	.01342	.01299	.01259	.01221	.01185	.01150	.01117
30	.01591	.01537	.01486	.01437	.01392	.01348	.01307	.01269	.01232	.01197
31	.01707	.01649	.01594	.01542	.01493	.01447	.01403	.01361	.01322	.01284
32	.01833	.01771	.01713	.01657	.01605	.01555	.01508	.01464	.01421	.01381
33	.01971	.01905	.01843	.01784	.01728	.01674	.01624	.01576	.01531	.01487
34	.02119	.02049	.01982	.01919	.01859	.01802	.01748	.01697	.01648	.01602

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
35	.02280	.02204	.02133	.02065	.02001	.01940	.01883	.01828	.01775	.01726
36	.02452	.02372	.02296	.02224	.02155	.02090	.02028	.01969	.01913	.01860
37	.02638	.02553	.02471	.02394	.02321	.02252	.02185	.02123	.02063	.02006
38	.02839	.02748	.02661	.02579	.02501	.02427	.02356	.02289	.02225	.02164
39	.03055	.02957	.02865	.02777	.02694	.02615	.02539	.02467	.02399	.02333
40	.03285	.03181	.03083	.02990	.02901	.02816	.02735	.02658	.02585	.02515
41	.03531	.03421	.03316	.03217	.03122	.03032	.02946	.02863	.02785	.02710
42	.03793	.03676	.03565	.03459	.03358	.03262	.03170	.03082	.02999	.02919
43	.04076	.03952	.03833	.03721	.03613	.03510	.03413	.03319	.03230	.03144
44	.04378	.04246	.04120	.04000	.03886	.03777	.03672	.03573	.03477	.03386
45	.04701	.04561	.04427	.04299	.04178	.04062	.03950	.03844	.03743	.03645
46	.05047	.04898	.04757	.04621	.04492	.04368	.04250	.04137	.04029	.03925
47	.05416	.05258	.05108	.04964	.04827	.04696	.04570	.04449	.04334	.04224
48	.05810	.05644	.05484	.05332	.05186	.05047	.04913	.04785	.04662	.04545
49	.06233	.06057	.05888	.05727	.05572	.05424	.05282	.05146	.05016	.04890
50	.06690	.06503	.06325	.06154	.05990	.05833	.05683	.05538	.05399	.05266
51	.07181	.06984	.06796	.06615	.06442	.06275	.06116	.05962	.05815	.05673
52	.07712	.07504	.07305	.07114	.06931	.06755	.06585	.06423	.06267	.06116
53	.08282	.08063	.07853	.07652	.07458	.07272	.07093	.06921	.06756	.06596
54	.08893	.08663	.08442	.08229	.08025	.07829	.07640	.07458	.07283	.07114
55	.09544	.09302	.09070	.08846	.08631	.08424	.08224	.08032	.07847	.07669
56	.10230	.09976	.09732	.09497	.09270	.09052	.08842	.08639	.08444	.08256
57	.10952	.10686	.10430	.10183	.09945	.09716	.09495	.09281	.09075	.08877
58	.11709	.11431	.11162	.10904	.10654	.10413	.10181	.09956	.09739	.09530
59	.12506	.12215	.11934	.11663	.11402	.11149	.10905	.10669	.10441	.10221
60	.13349	.13045	.12751	.12468	.12194	.11929	.11674	.11426	.11187	.10955
61	.14236	.13919	.13613	.13317	.13031	.12754	.12486	.12227	.11976	.11733
62	.15166	.14836	.14517	.14208	.13909	.13620	.13340	.13069	.12806	.12551
63	.16138	.15795	.15463	.15141	.14830	.14528	.14235	.13952	.13677	.13410
64	.17155	.16799	.16453	.16119	.15794	.15480	.15175	.14879	.14592	.14313
65	.18220	.17850	.17492	.17144	.16806	.16479	.16161	.15853	.15553	.15262
66	.19358	.18975	.18604	.18243	.17893	.17552	.17222	.16901	.16589	.16285
67	.20568	.20173	.19788	.19415	.19052	.18699	.18356	.18022	.17698	.17382
68	.21847	.21439	.21042	.20656	.20280	.19915	.19560	.19213	.18877	.18549
69	.23191	.22771	.22362	.21964	.21577	.21199	.20831	.20473	.20124	.19784
70	.24601	.24169	.23748	.23339	.22939	.22550	.22171	.21801	.21440	.21088

Table U(1) - Unitrust Single Life Remainder Factors
Based on Life Table 2000CM
Applicable on or After May 1, 2009

Adjusted Payout Rate

AGE	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
71	.26080	.25638	.25206	.24785	.24375	.23974	.23584	.23202	.22830	.22467
72	.27630	.27178	.26736	.26305	.25884	.25473	.25071	.24679	.24296	.23922
73	.29244	.28782	.28331	.27890	.27460	.27039	.26628	.26226	.25833	.25449
74	.30914	.30444	.29984	.29535	.29096	.28666	.28245	.27834	.27432	.27038
75	.32630	.32153	.31686	.31229	.30782	.30344	.29915	.29496	.29085	.28682
76	.34389	.33905	.33432	.32968	.32514	.32069	.31633	.31205	.30787	.30376
77	.36187	.35698	.35220	.34750	.34290	.33839	.33396	.32963	.32537	.32120
78	.38022	.37530	.37047	.36573	.36108	.35652	.35204	.34765	.34333	.33910
79	.39891	.39396	.38910	.38433	.37965	.37504	.37053	.36609	.36173	.35744
80	.41786	.41290	.40802	.40323	.39852	.39389	.38934	.38486	.38047	.37615
81	.43703	.43207	.42719	.42238	.41766	.41302	.40845	.40395	.39953	.39518
82	.45638	.45143	.44655	.44175	.43703	.43238	.42781	.42330	.41887	.41450
83	.47583	.47090	.46604	.46126	.45655	.45191	.44734	.44284	.43840	.43403
84	.49532	.49043	.48561	.48085	.47617	.47155	.46700	.46251	.45808	.45372
85	.51480	.50996	.50518	.50047	.49582	.49124	.48671	.48225	.47785	.47351
86	.53421	.52943	.52470	.52004	.51544	.51090	.50642	.50200	.49763	.49332
87	.55346	.54875	.54409	.53950	.53496	.53047	.52604	.52167	.51734	.51307
88	.57254	.56791	.56333	.55881	.55434	.54992	.54555	.54124	.53697	.53275
89	.59134	.58680	.58231	.57788	.57349	.56914	.56485	.56060	.55640	.55225
90	.60982	.60538	.60099	.59665	.59234	.58809	.58388	.57971	.57558	.57150
91	.62794	.62361	.61932	.61508	.61087	.60671	.60259	.59851	.59447	.59046
92	.64564	.64142	.63725	.63311	.62901	.62495	.62093	.61694	.61299	.60907
93	.66284	.65874	.65468	.65066	.64667	.64272	.63880	.63491	.63106	.62724
94	.67955	.67558	.67164	.66773	.66386	.66002	.65621	.65243	.64868	.64496
95	.69574	.69190	.68809	.68431	.68055	.67683	.67313	.66946	.66582	.66221
96	.71131	.70760	.70391	.70025	.69662	.69302	.68944	.68588	.68235	.67885
97	.72626	.72268	.71913	.71560	.71209	.70861	.70515	.70171	.69829	.69490
98	.74063	.73718	.73376	.73035	.72697	.72361	.72027	.71695	.71365	.71037
99	.75442	.75111	.74781	.74454	.74128	.73804	.73483	.73163	.72844	.72528
100	.76744	.76426	.76109	.75794	.75481	.75169	.74860	.74551	.74245	.73940
101	.78001	.77695	.77392	.77089	.76788	.76489	.76191	.75895	.75600	.75306
102	.79172	.78879	.78587	.78297	.78008	.77720	.77434	.77149	.76865	.76582
103	.80354	.80074	.79795	.79517	.79240	.78965	.78690	.78417	.78145	.77874
104	.81442	.81174	.80906	.80640	.80374	.80110	.79847	.79584	.79323	.79063
105	.82511	.82254	.81998	.81742	.81488	.81234	.80982	.80730	.80479	.80229
106	.83887	.83646	.83405	.83165	.82926	.82687	.82449	.82212	.81975	.81739
107	.85466	.85243	.85020	.84798	.84576	.84355	.84134	.83914	.83694	.83474
108	.88172	.87984	.87797	.87610	.87423	.87236	.87049	.86862	.86676	.86490
109	.93900	.93800	.93700	.93600	.93500	.93400	.93300	.93200	.93100	.93000

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(f) *Effective/applicability date.* This section applies on or after May 1, 2009.

(g) *Expiration date.* This section expires on or before May 1, 2012.

■ **Par. 11.** The undesignated center heading immediately preceding § 1.664–4A is revised to read as follows:

Unitrust Actuarial Tables Applicable Before May 1, 2009

■ **Par. 12.** Section 1.664–4A is amended as follows:

■ 1. The section heading is revised.

■ 2. The heading of newly-designated paragraph (f) is revised.

■ 3. Newly-designated paragraphs (f)(1) and (f)(2) are revised.

■ 4. New paragraphs (f)(3) and (f)(4) are added.

■ 5. Newly-designated paragraph (f)(5) is revised.

■ 6. In newly-designated paragraph (f)(6), the heading and the first paragraph are revised.

■ 7. The heading of Table U(1) is revised.

■ 8. Paragraph (f)(7) is added.

The additions and revisions read as follows:

§ 1.664–4A Valuation of charitable remainder interests for which the valuation date is before May 1, 2009.

* * * * *

(f) *Valuation of charitable remainder unitrusts having certain payout sequences for transfers for which the valuation date is after April 30, 1999, and before May 1, 2009*—(1) *In general.* Except as otherwise provided in paragraph (f)(2) of this section, in the case of transfers for which the valuation date is after April 30, 1999, and before May 1, 2009, the present value of a remainder interest is determined under paragraphs (f)(3) through (f)(6) of this section, provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664–3(a)(1)(v) if the taxable year of the trust were to end on such date. See, however, § 1.7520–3(b) (relating to exceptions to the use of the prescribed tables under certain circumstances).

(2) *Transitional rules for valuation of charitable remainder unitrusts.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after April 30, 1999, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency after April 30, 1999, the present value of a remainder interest under this section is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 1999, or after April 30, 1999, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a charitable remainder unitrust for which the valuation date is after April 30, 1999, and before July 1, 1999, the present value of a remainder interest based on one or more measuring lives is determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(6) or (f)(6) of this section, at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (f)(2)(i) and (f)(2)(ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(6) or (f)(6) of this section, the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Adjusted payout rate.* For transfers for which the valuation date is after April 30, 1999, and before May 1, 2009, the adjusted payout rate is determined by using the appropriate Table F, contained in § 1.664–4(e)(6), for the section 7520 interest rate applicable to the transfer. If the interest rate is between 4.2 and 14 percent, see § 1.664–4(e)(6). If the interest rate is below 4.2 percent or greater than 14 percent, see § 1.664–4(b). See § 1.664–4(e) for rules applicable in determining the adjusted payout rate.

(4) *Period is a term of years.* If the period described in § 1.664–3(a)(5) is a term of years, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after April 30, 1999, and before May 1, 2009, is the factor under the appropriate adjusted payout rate in Table D in § 1.664–4(e)(6) corresponding to the number of years in the term. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in Table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph. Generally, for purposes of this section, the valuation date is, in the case of an inter vivos transfer, the date on which the property is transferred to the trust by the donor, and, in the case of a testamentary transfer under sections 2055, 2106, or 2624, the valuation date is the date of death. See § 1.664–4(e)(4) for additional rules regarding the valuation date. See § 1.664–4(e)(4) for an example that illustrates the application of this paragraph (f)(4).

(5) *Period is the life of one individual.* If the period described in § 1.664–3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after April 30, 1999, and before May 1, 2009, is the factor in Table U(1) in paragraph (f)(6) of this section under the appropriate adjusted payout. For purposes of the computations described in this paragraph (f)(5), the age of an individual is the age of that individual at the individual's nearest birthday. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in the appropriate table, a linear interpolation must be made. The rules provided in § 1.664–4T(e)(5) apply for determining the present value of the remainder interest. See § 1.664–4T(e)(5) for an example illustrating the application of this paragraph (f)(5) (using current actuarial tables).

(6) *Actuarial Table U(1) for transfers for which the valuation date is after April 30, 1999, and before May 1, 2009.* For transfers for which the valuation date is after April 30, 1999, and before May 1, 2009, the present value of a charitable remainder unitrust interest that is dependent on the termination of a life interest is determined by using the section 7520 rate, Table U(1) in this paragraph (f)(6), and Tables F(4.2) through F(14.0) in § 1.664–4(e)(6). See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Many actuarial factors not contained in the following tables are contained in Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (7–1999). Publication 1458 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office. However, pertinent factors in this publication may be obtained by a written request to: CC:PA:LPD:PR (IRS Publication 1458), Room 5205, Internal

Revenue Service, P.O.Box 7604, Ben Franklin Station, Washington, DC 20044.

TABLE U(1)—BASED ON LIFE TABLE 90CM UNITRUST SINGLE LIFE REMAINDER FACTORS

[Applicable After April 30, 1999, and Before May 1, 2009]

* * * * *

(7) *Effective/applicability dates.* Paragraphs (f)(1) through (f)(6) apply after April 30, 1999, and before May 1, 2009.

■ **Par. 13.** Section 1.7520–1 is amended by:

■ 1. Revising the section heading.

■ 2. Revising paragraphs (a)(1) and (a)(2).

■ 3. Removing the last two sentences of paragraph (b)(2) and adding a new sentence at the end of the paragraph.

■ 4. Revising paragraph (c)(1).

■ 5. Revising the heading and introductory text of paragraph (c)(2).

■ 6. Revising paragraph (d).

The revisions and additions read as follows:

§ 1.7520–1 Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests prior to May 1, 2009.

(a) *General actuarial valuations.* (1) Except as otherwise provided in this section and in § 1.7520–3 (relating to exceptions to the use of prescribed tables under certain circumstances), in the case of certain transactions after April 30, 1989, subject to income tax, the fair market value of annuities, interests for life or for a term of years (including unitrust interests), remainders, and reversions is their present value determined under this section. For periods prior to May 1, 2009, see § 20.2031–7A for the computation of the value of annuities, unitrust interests, life estates, terms for years, remainders, and reversions, other than interests described in paragraphs (a)(2) and (a)(3) of this section.

(2) For a transfer to a pooled income fund prior to May 1, 2009, see § 1.642(c)–6A with respect to the valuation of the remainder interest.

* * * * *

(b) * * *

(2) * * * For transactions with valuation dates after April 30, 1989, and before May 1, 2009, the mortality component tables are contained in § 20.2031–7A.

(c) * * *

(1) [Reserved]. For further guidance, see § 1.7520–1T(c)(1).

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 22 percent for valuation dates after April 30, 1999, and before* May 1, 2009. The following publications are no longer available for purchase from the Superintendent of Documents, United States Government Printing Office; however, they may be obtained from CC:PA:LPD:PR, Room 5205, Internal Revenue Service, P.O.Box 7604, Ben Franklin Station, Washington, DC 20044:

* * * * *

(d) *Effective/applicability dates.* This section applies after April 30, 1989, and before May 1, 2009.

■ **Par. 14.** Section 1.7520–1T is added to read as follows:

§*1.7520–1T Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests on or after* May 1, 2009 *(temporary).*

(a) *General actuarial valuations.* (1) Except as otherwise provided in this section and in § 1.7520–3 (relating to exceptions to the use of prescribed tables under certain circumstances), in the case of certain transactions after April 30, 1989, subject to income tax, the fair market value of annuities, interests for life or for a term of years (including unitrust interests), remainders, and reversions is their present value determined under this section. See § 20.2031–7T(d) (and, for certain prior periods, § 20.2031–7A) for the computation of the value of annuities, unitrust interests, life estates, terms for years, remainders, and reversions, other than interests described in paragraphs (a)(2) and (a)(3) of this section.

(2) For a transfer to a pooled income fund on or after May 1, 2009, see § 1.642(c)–6T(e) (or, for certain prior periods, § 1.642(c)–6A) with respect to the valuation of the remainder interest.

(3) [Reserved]. For further guidance, see § 1.7520–1(a)(3).

(b)(1) [Reserved]. For further guidance, see § 1.7520–1(b)(1).

(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the revised mortality component tables will be published in the regulations at that time. For transactions with valuation dates on or after May 1, 2009, the mortality component table (Table 2000CM) is contained in § 20.2031–7T(d)(7). See § 20.2031–7A for mortality component tables applicable to transactions for which the valuation date falls before May 1, 2009.

(c) [Reserved]. For further guidance, see § 1.7520–1(c).

(1) *Regulation sections containing tables with interest rates between 0.2 and 14 percent for valuation dates on or after May 1, 2009.* Section 1.642(c)–6T(e)(6) contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5. See § 1.642(c)–6A for actuarial factors for one life applicable to valuation dates before May 1, 2009. Section 1.664–4(e)(6) contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section 1.664–4T(e)(7) contains Table U(1) (unitrust single life remainder factors). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3. See § 1.664–4A for unitrust single life remainder factors applicable to valuation dates before May 1, 2009. Section 20.2031–7(d)(6) contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), and Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7T(d)(7) contains Table S (single life remainder factors), and Table 2000CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A for single life remainder factors for one life and mortality components applicable to valuation dates before May 1, 2009.

(2) *Internal Revenue Service publications containing tables with interest rates between 0.2 and 22 percent for valuation dates on or after May 1, 2009.* The following documents are available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov:*

(i) Internal Revenue Service Publication 1457, ''Actuarial Valuations Version 3A'' (2009). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 and a pooled income fund as defined in § 1.642(c)–5.

(ii) Internal Revenue Service Publication 1458, ''Actuarial Valuations

Version 3B'' (2009). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3.

(iii) Internal Revenue Service Publication 1459, ''Actuarial Valuations Version 3C''

(2009). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12T.

(d) *Effective/applicability date.* This section applies on or after May 1, 2009.

(e) *Expiration date.* This section expires on or before May 1, 2012.

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

■ **Par. 15.** The authority citation for part 20 is amended by adding entries in numerical order to read in part as follows:

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

Section 20.2031–7T also issued under 26 U.S.C. 7520(c)(2).

Section 20.7520–1T also issued under 26 U.S.C. 7520(c)(2). * * *

■ **Par. 16.** Section 20.2031–0 is revised to read as follows:

§ 20.2031–0 Table of contents.

This section lists the section headings and undesignated center headings that appear in the regulations under section 2031.

§ 20.2031–1 Definition of gross estate; valuation of property.
§ 20.2031–2 Valuation of stocks and bonds.
§ 20.2031–3 Valuation of interests in businesses.
§ 20.2031–4 Valuation of notes.
§ 20.2031–5 Valuation of cash on hand or on deposit.
§ 20.2031–6 Valuation of household and personal effects.
§ 20.2031–7 Valuation of annuities, interests for life or term of years, and remainder or reversionary interests.
§ 20.2031–7T Valuation of annuities, interests for life or term of years, and remainder or reversionary interests (temporary).
§ 20.2031–8 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.
§ 20.2031–9 Valuation of other property.

Actuarial Tables Applicable Before May 1, 2009

§ 20.2031–7A Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before May 1, 2009.

■ **Par. 17.** Section 20.2031–7 is amended as follows:

■ 1. Revising paragraphs (c), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), and (e).

■ 2. Redesignating paragraph (d)(7) as paragraph (f)(4) of § 20.2031–7A.

■ 3. Adding new paragraph (d)(7).

The revisions and additions read as follows:

§ 20.2031–7 Valuation of annuities, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) through (d)(5) [Reserved]. For further guidance, see § 20.2031–7T(c) through (d)(5).

* * * * *

(7) [Reserved]. For further guidance, see § 20.2031–7T(d)(7).

(e) *Effective/applicability dates.* This section applies after April 30, 1999, and before May 1, 2009.

■ **Par. 18.** Section 20.2031–7T is added to read as follows:

§ 20.2031–7T Valuation of annuities, interests for life or term of years, and remainder or reversionary interests (temporary).

(a) through (b) [Reserved]. For further information see § 20.2031–7(a) through (b).

(c) *Actuarial valuations.* The present value of annuities, life estates, terms of years, remainders, and reversions for estates of decedents for which the valuation date of the gross estate is on or after May 1, 2009, is determined under paragraph (d) of this section. The present value of annuities, life estates, terms of years, remainders, and reversions for estates of decedents for which the valuation date of the gross estate is before May 1, 2009, is determined under the following sections:

Valuation date		Applicable regulations
After	Before	
	01–01–52	20.2031–7A(a).
12–31–51	01–01–71	20.2031–7A(b).
12–31–70	12–01–83	20.2031–7A(c).
11–30–83	05–01–89	20.2031–7A(d).
04–30–89	05–01–99	20.2031–7A(e).
04–30–99	05–01–09	20.2031–7A(f).

(d) *Actuarial valuations on or after May 1, 2009*—(1) *In general.* Except as otherwise provided in paragraph (b) of this section and § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date for the gross estate of the decedent is on or after May 1, 2009, the fair market value of annuities, life estates, terms of years, remainders, and reversionary interests is the present value determined by use of standard or special section 7520 actuarial factors. These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. For purposes of the computations described in this section, the age of an individual is the age of that individual at the individual's nearest birthday. See §§ 20.7520–1 through 20.7520–4.

(2) *Specific interests*—(i) *Charitable remainder trusts.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5, is its value determined under § 1.642(c)–6T(e). The fair market value of a remainder interest in a charitable remainder annuity trust, as defined in § 1.664–2(a), is the present value determined under § 1.664–2(c). The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3, is its present value determined under § 1.664–4T(e). The fair market value of a life interest or term of years in a charitable remainder unitrust is the fair market value of the property as of the date of valuation less the fair market value of the remainder interest on that date determined under § 1.664–4T(e)(4) and (5).

(ii) *Ordinary remainder and reversionary interests.* If the interest to be valued is to take effect after a definite number of years or after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder interest actuarial factor (that corresponds to the applicable section 7520 interest rate and remainder interest

period) in Table B (for a term certain) or the appropriate Table S (for one measuring life), as the case may be. Table B is contained in § 20.2031–7(d)(6) and Table S (for one measuring life when the valuation date is on or after May 1, 2009) is contained in paragraph (d)(7) of this section and in Internal Revenue Service Publication 1457. See § 20.2031–7A containing Table S for valuation of interests before May 1, 2009. For information about obtaining actuarial factors for other types of remainder interests, see paragraph (d)(4) of this section.

(iii) *Ordinary term-of-years and life interests.* If the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable section 7520 interest rate and term-of-years or life interest period). Internal Revenue Service Publication 1457 includes actuarial factors for a remainder interest after a term of years in Table B and after the life of one individual in Table S (for one measuring life when the valuation date is on or after May 1, 2009). However, term-of-years and life interest actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in paragraph (d)(7) of this section (or in § 20.2031–7A). If Internal Revenue Service Publication 1457 (or any other reliable source of term-of-years and life interest actuarial factors) is not conveniently available, an actuarial factor for the interest may be derived mathematically. This actuarial factor may be derived by subtracting the correlative remainder factor (that corresponds to the applicable section 7520 interest rate and the term of years or the life) in Table B (for a term of years) in § 20.2031–7(d)(6) or in Table S (for the life of one individual) in paragraph (d)(7) of this section, as the case may be, from 1.000000. For information about obtaining actuarial factors for other types of term-of-years and life interests, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount payable annually by the appropriate annuity actuarial factor (that corresponds to the applicable section 7520 interest rate and annuity period). Internal Revenue Publication 1457 includes actuarial factors for a remainder interest in Table B (after an annuity payable for a term of years) and in Table S (after an annuity payable for the life of one individual when the valuation date is on or after May 1, 2009). However, annuity actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in paragraph (d)(7) of this section (or in § 20.2031–7A). If Internal Revenue Service Publication 1457 (or any other reliable source of annuity actuarial factors) is not conveniently available, a required annuity factor for a term of years or for one life may be mathematically derived. This annuity factor may be derived by subtracting the applicable remainder factor (that corresponds to the applicable section 7520 interest rate and annuity period) in Table B (in the case of a term-of-years annuity) in § 20.2031–7(d)(6) or in Table S (in the case of a one-life annuity when the valuation date is on or after May 1, 2009) in paragraph (d)(7) of this section, as the case may be, from 1.000000 and then dividing the result by the applicable section 7520 interest rate expressed as a decimal number.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor as contained in Table K in § 20.2031–7(d)(6) for payments made at the end of the specified periods. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the following example:

Example. At the time of the decedent's death, the survivor/annuitant, age 72, is entitled to receive an annuity of $15,000 a year for life payable in equal monthly installments at the end of each period. The section 7520 rate for the month in which the decedent died is 5.6 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 5.6 percent for an individual aged 72 is .53243. By converting the remainder factor to an annuity factor, as described above, the annuity factor at 5.6 percent for an individual aged 72 is 8.3495 (1.00000 minus .53243, divided by .056). Under Table K in § 20.2031–7(d)(6), the adjustment factor under the column for payments made at the end of each monthly period at the rate of 5.6 percent is 1.0254. The aggregate annual amount, $15,000, is multiplied by the factor 8.3495 and the product multiplied by 1.0254. The present value of the annuity at the date of the decedent's death is, therefore, $128,423.66 ($15,000 × 8.3495 × 1.0254).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained is then multiplied by the adjustment factor in Table J in § 20.2031–7(d)(6) at the appropriate interest rate component for payments made at the beginning of specified periods. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in this paragraph (d)(2)(iv).

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual.* See § 25.2512–5T(d)(2)(v) for examples explaining how to compute the present value of an annuity or unitrust interest that is payable until the earlier of the lapse of a specific number of years or the death of an individual.

(3) *Transitional rule.* (i) If a decedent dies on or after May 1, 2009, and if on May 1, 2009, the decedent was mentally incompetent so that the disposition of the decedent's property could not be changed, and the decedent dies without having regained competency to dispose of the decedent's property or dies within 90 days of the date on which the decedent first regains competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the gross estate of the decedent is their present value determined either under this section or under the corresponding section applicable at the time the decedent became mentally incompetent, at the option of the decedent's executor. For examples, see § 20.2031–7A(d).

(ii) If a decedent dies on or after May 1, 2009, and before July 1, 2009, the fair market value of annuities, life estates, remainders, and reversions based on one or more measuring lives included in the gross estate of the decedent is their present value determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 20.7520–1(b) and 20.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (d)(7) of this section or § 20.2031–7A(f)(4), at the option of the decedent's executor.

(iii) For purposes of paragraphs (d)(3)(i) and (d)(3)(ii) of this section, where the decedent's executor is given the option to use the appropriate

actuarial tables under either paragraph (d)(7) of this section or § 20.2031–7A(f)(4), the decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(4) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in § 20.2031–7(d)(6) or in paragraph (d)(7) of this section are included in Internal Revenue Service Publication 1457, ''Actuarial Valuations Version 3A'' (2009). Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. This publication will be available beginning May 1, 2009, at no charge, electronically via the Internal Revenue Service Internet site at *http://www.irs.gov.* If a special factor is required in the case of an actual decedent, the Internal Revenue Service may furnish the factor to the executor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent's death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*)) and include payment of the required user fee.

(5) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. Remainder payable at an individual's death. The decedent, or the decedent's estate, was entitled to receive certain property worth $50,000 upon the death of A, to whom the income was bequeathed for life. At the time of the decedent's death, A was 47 years and 5 months old. In the month in which the decedent died, the section 7520 rate was 6.2 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 6.2 percent for determining the present value of the remainder interest due at the death of a person aged 47, the number of years nearest A's actual age at the decedent's death, is .18672. The present value of the remainder interest at the date of the decedent's death is, therefore, $9,336.00 ($50,000 × .18672).

Example 2. Income payable for an individual's life. A's parent bequeathed an income interest in property to A for life, with the remainder interest passing to B at A's death. At the time of the parent's death, the value of the property was $50,000 and A was 30 years and 10 months old. The section 7520 rate at the time of the parent's death was 6.2 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 6.2 percent for determining the present value of the remainder interest due at the death of a person aged 31, the number of years closest to A's age at the decedent's death, is .08697. Converting this remainder factor to an income factor, as described in paragraph (d)(2)(iii) of this section, the factor for determining the present value of an income interest for the life of a person aged 31 is .91303. The present value of A's interest at the time of the parent's death is, therefore, $45,651.50 ($50,000 × .91303).

Example 3. Annuity payable for an individual's life. A purchased an annuity for the benefit of both A and B. Under the terms of the annuity contract, at A's death, a survivor annuity of $10,000 per year payable in equal semiannual installments made at the end of each interval is payable to B for life. At A's death, B was 45 years and 7 months old. Also, at A's death, the section 7520 rate was 4.8 percent. Under Table S in paragraph (d)(7) of this section, the factor at 4.8 percent for determining the present value of the remainder interest at the death of a person age 46 (the number of years nearest B's actual age) is .24774. By converting the factor to an annuity factor, as described in paragraph (d)(2)(iv)(A) of this section, the factor for the present value of an annuity payable until the death of a person age 46 is 15.6721 (1.00000 minus .24774, divided by .048). The adjustment factor from Table K in § 20.2031–7(d)(6) at an interest rate of 4.8 percent for semiannual annuity payments made at the end of the period is 1.0119. The present value of the annuity at the date of A's death is, therefore, $158,585.98 ($10,000 × 15.6721 × 1.0119).

Example 4. Annuity payable for a term of years. The decedent, or the decedent's estate, was entitled to receive an annuity of $10,000 per year payable in equal quarterly installments at the end of each quarter throughout a term certain. At the time of the decedent's death, the section 7520 rate was 9.8 percent. A quarterly payment had just been made prior to the decedent's death and payments were to continue for 5 more years. Under Table B in § 20.2031–7(d)(6) for the interest rate of 9.8 percent, the factor for the present value of a remainder interest due after a term of 5 years is .626597. Converting the factor to an annuity factor, as described in paragraph (d)(2)(iv)(A) of this section, the factor for the present value of an annuity for a term of 5 years is 3.8102 (1.00000 minus .626597, divided by .098). The adjustment factor from Table K in § 20.2031–7(d)(6) at an interest rate of 9.8 percent for quarterly annuity payments made at the end of the period is 1.0360. The present value of the annuity is, therefore, $39,473.67 ($10,000 × 3.8102 × 1.0360).

(6) [Reserved]. For further guidance, see § 20.2031–7(d)(6).

(7) *Actuarial Table S and Table 2000CM where the valuation date is on or after* May 1, 2009. Except as provided in § 20.7520–2(b) (pertaining to certain limitations on the use of prescribed tables), for determination of the present value of an interest that is dependent on the termination of a life interest, Table 2000CM and Table S (single life remainder factors applicable where the valuation date is on or after May 1, 2009) contained in this paragraph (d)(7) and Table J and Table K contained in § 20.2031–7(d)(6), must be used in the application of the provisions of this section when the section 7520 interest rate component is between 0.2 and 14 percent.

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Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
0	.85816	.73751	.63478	.54723	.47252	.40872	.35416	.30747	.26745	.23313
1	.85889	.73863	.63604	.54844	.47355	.40948	.35459	.30752	.26711	.23239
2	.86054	.74145	.63968	.55260	.47802	.41409	.35922	.31209	.27155	.23664
3	.86221	.74433	.64339	.55687	.48263	.41887	.36404	.31685	.27619	.24112
4	.86390	.74725	.64716	.56121	.48733	.42374	.36898	.32175	.28098	.24575
5	.86560	.75018	.65097	.56561	.49209	.42871	.37401	.32675	.28588	.25050
6	.86731	.75314	.65482	.57006	.49692	.43375	.37913	.33186	.29090	.25538
7	.86902	.75611	.65868	.57454	.50180	.43885	.38432	.33704	.29601	.26035
8	.87073	.75909	.66258	.57907	.50674	.44403	.38960	.34233	.30122	.26544
9	.87246	.76209	.66651	.58364	.51173	.44928	.39497	.34771	.30654	.27064
10	.87419	.76511	.67046	.58826	.51679	.45459	.40042	.35319	.31197	.27596
11	.87592	.76814	.67445	.59291	.52190	.45998	.40596	.35876	.31750	.28139
12	.87766	.77119	.67845	.59761	.52706	.46544	.41157	.36443	.32313	.28693
13	.87939	.77424	.68247	.60232	.53225	.47094	.41723	.37015	.32884	.29255
14	.88112	.77728	.68649	.60704	.53746	.47646	.42293	.37592	.33460	.29823
15	.88284	.78031	.69050	.61176	.54267	.48199	.42865	.38172	.34038	.30394
16	.88455	.78333	.69449	.61647	.54788	.48752	.43437	.38752	.34619	.30968
17	.88625	.78633	.69848	.62117	.55309	.49307	.44012	.39336	.35203	.31546
18	.88795	.78933	.70246	.62588	.55830	.49863	.44589	.39923	.35791	.32129
19	.88964	.79232	.70644	.63059	.56354	.50422	.45170	.40514	.36385	.32719
20	.89132	.79532	.71044	.63534	.56882	.50987	.45757	.41114	.36987	.33317
21	.89301	.79832	.71445	.64010	.57413	.51555	.46350	.41719	.37597	.33925
22	.89470	.80133	.71847	.64488	.57947	.52129	.46948	.42332	.38216	.34541
23	.89639	.80434	.72251	.64970	.58486	.52708	.47554	.42954	.38844	.35168
24	.89808	.80737	.72658	.65456	.59031	.53295	.48169	.43586	.39484	.35809
25	.89978	.81042	.73068	.65947	.59583	.53890	.48795	.44230	.40137	.36464
26	.90149	.81349	.73482	.66443	.60141	.54494	.49430	.44886	.40804	.37134
27	.90320	.81657	.73899	.66944	.60707	.55107	.50076	.45554	.41484	.37819
28	.90492	.81968	.74319	.67450	.61278	.55728	.50733	.46233	.42178	.38520
29	.90665	.82279	.74741	.67960	.61856	.56356	.51398	.46924	.42884	.39233
30	.90837	.82591	.75165	.68473	.62438	.56990	.52070	.47623	.43601	.39959
31	.91010	.82904	.75592	.68989	.63024	.57631	.52751	.48333	.44329	.40698
32	.91182	.83218	.76020	.69509	.63616	.58278	.53440	.49052	.45068	.41449
33	.91355	.83532	.76449	.70031	.64212	.58931	.54137	.49780	.45818	.42213
34	.91527	.83847	.76880	.70556	.64811	.59589	.54839	.50516	.46578	.42988

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
35	.91700	.84162	.77312	.71082	.65414	.60253	.55549	.51261	.47347	.43774
36	.91872	.84477	.77744	.71611	.66021	.60921	.56266	.52014	.48127	.44572
37	.92043	.84792	.78178	.72142	.66631	.61594	.56989	.52774	.48916	.45381
38	.92215	.85107	.78613	.72675	.67244	.62272	.57718	.53544	.49715	.46201
39	.92386	.85422	.79048	.73210	.67860	.62955	.58453	.54320	.50523	.47032
40	.92557	.85736	.79483	.73746	.68479	.63641	.59194	.55104	.51340	.47873
41	.92727	.86050	.79918	.74283	.69100	.64331	.59940	.55894	.52165	.48724
42	.92896	.86364	.80354	.74820	.69723	.65024	.60690	.56691	.52998	.49585
43	.93065	.86677	.80789	.75359	.70348	.65721	.61447	.57495	.53840	.50457
44	.93234	.86990	.81225	.75899	.70976	.66422	.62208	.58305	.54690	.51338
45	.93402	.87302	.81660	.76439	.71605	.67125	.62973	.59122	.55547	.52228
46	.93569	.87613	.82095	.76980	.72236	.67832	.63743	.59945	.56413	.53129
47	.93735	.87924	.82530	.77521	.72867	.68541	.64517	.60773	.57286	.54037
48	.93901	.88233	.82964	.78062	.73501	.69253	.65295	.61606	.58166	.54955
49	.94065	.88541	.83397	.78604	.74135	.69967	.66077	.62446	.59053	.55882
50	.94229	.88849	.83830	.79145	.74771	.70684	.66864	.63292	.59949	.56819
51	.94393	.89156	.84263	.79688	.75409	.71404	.67655	.64143	.60852	.57766
52	.94556	.89462	.84695	.80230	.76048	.72127	.68450	.65001	.61763	.58722
53	.94717	.89767	.85126	.80772	.76687	.72852	.69249	.65863	.62680	.59687
54	.94878	.90070	.85555	.81313	.77326	.73577	.70050	.66730	.63603	.60658
55	.95037	.90371	.85983	.81853	.77964	.74302	.70851	.67598	.64530	.61635
56	.95195	.90670	.86406	.82388	.78599	.75024	.71651	.68465	.65457	.62613
57	.95351	.90965	.86827	.82920	.79230	.75744	.72448	.69332	.66384	.63593
58	.95505	.91257	.87243	.83447	.79857	.76459	.73242	.70195	.67309	.64573
59	.95657	.91546	.87655	.83970	.80479	.77170	.74033	.71057	.68233	.65553
60	.95807	.91832	.88064	.84490	.81098	.77879	.74822	.71918	.69158	.66534
61	.95955	.92115	.88469	.85005	.81713	.78584	.75608	.72776	.70081	.67515
62	.96101	.92395	.88869	.85515	.82323	.79283	.76388	.73630	.71001	.68494
63	.96245	.92670	.89265	.86020	.82926	.79977	.77164	.74479	.71917	.69470
64	.96387	.92942	.89655	.86518	.83524	.80665	.77933	.75323	.72828	.70443
65	.96527	.93210	.90040	.87011	.84116	.81346	.78697	.76162	.73735	.71411
66	.96665	.93476	.90423	.87502	.84706	.82027	.79461	.77002	.74645	.72385
67	.96802	.93739	.90803	.87990	.85292	.82705	.80223	.77841	.75554	.73359
68	.96937	.93999	.91179	.88472	.85874	.83378	.80980	.78676	.76461	.74331
69	.97070	.94255	.91549	.88949	.86449	.84044	.81731	.79504	.77362	.75299
70	.97200	.94506	.91914	.89419	.87016	.84702	.82473	.80326	.78256	.76260

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	0.2%	0.4%	0.6%	0.8%	1.0%	1.2%	1.4%	1.6%	1.8%	2.0%
71	.97328	.94754	.92273	.89882	.87577	.85353	.83209	.81140	.79143	.77215
72	.97453	.94997	.92626	.90338	.88129	.85996	.83935	.81945	.80021	.78162
73	.97576	.95234	.92972	.90785	.88671	.86627	.84651	.82739	.80888	.79098
74	.97695	.95466	.93310	.91223	.89202	.87247	.85353	.83518	.81741	.80019
75	.97811	.95692	.93638	.91649	.89720	.87851	.86039	.84281	.82577	.80923
76	.97924	.95910	.93957	.92063	.90224	.88440	.86708	.85026	.83393	.81807
77	.98033	.96122	.94267	.92465	.90715	.89013	.87360	.85753	.84191	.82671
78	.98138	.96327	.94567	.92855	.91190	.89571	.87995	.86461	.84968	.83515
79	.98239	.96526	.94857	.93233	.91652	.90112	.88611	.87149	.85725	.84337
80	.98337	.96717	.95138	.93598	.92098	.90635	.89208	.87817	.86460	.85135
81	.98431	.96901	.95408	.93951	.92529	.91141	.89786	.88463	.87172	.85910
82	.98521	.97077	.95667	.94290	.92944	.91629	.90344	.89088	.87861	.86660
83	.98608	.97247	.95917	.94616	.93343	.92099	.90882	.89691	.88526	.87385
84	.98691	.97409	.96156	.94928	.93727	.92551	.91399	.90271	.89166	.88084
85	.98770	.97565	.96384	.95228	.94094	.92984	.91895	.90828	.89782	.88757
86	.98845	.97713	.96602	.95514	.94446	.93398	.92371	.91362	.90373	.89402
87	.98917	.97854	.96810	.95786	.94781	.93794	.92825	.91873	.90939	.90021
88	.98985	.97988	.97008	.96046	.95100	.94171	.93258	.92361	.91479	.90612
89	.99049	.98115	.97196	.96292	.95404	.94530	.93671	.92826	.91994	.91176
90	.99110	.98235	.97373	.96526	.95691	.94871	.94062	.93267	.92484	.91713
91	.99168	.98348	.97541	.96747	.95964	.95193	.94434	.93686	.92949	.92223
92	.99222	.98455	.97700	.96955	.96222	.95498	.94785	.94083	.93390	.92707
93	.99273	.98556	.97849	.97152	.96464	.95786	.95117	.94457	.93806	.93163
94	.99321	.98651	.97989	.97337	.96692	.96057	.95429	.94810	.94199	.93595
95	.99366	.98739	.98121	.97510	.96907	.96312	.95724	.95143	.94569	.94002
96	.99408	.98822	.98244	.97673	.97108	.96551	.95999	.95454	.94916	.94384
97	.99447	.98900	.98359	.97825	.97297	.96774	.96258	.95747	.95242	.94742
98	.99483	.98973	.98467	.97967	.97473	.96984	.96500	.96021	.95547	.95078
99	.99518	.99040	.98568	.98101	.97638	.97180	.96727	.96278	.95834	.95394
100	.99549	.99103	.98661	.98224	.97791	.97362	.96937	.96516	.96100	.95687
101	.99579	.99162	.98750	.98340	.97935	.97534	.97136	.96742	.96351	.95964
102	.99607	.99217	.98831	.98448	.98068	.97692	.97319	.96950	.96583	.96220
103	.99634	.99271	.98911	.98553	.98199	.97848	.97500	.97155	.96812	.96473
104	.99659	.99320	.98984	.98651	.98320	.97992	.97666	.97344	.97023	.96705
105	.99683	.99369	.99056	.98747	.98439	.98134	.97830	.97530	.97231	.96934
106	.99713	.99429	.99146	.98865	.98586	.98309	.98033	.97760	.97488	.97218
107	.99747	.99496	.99246	.98998	.98751	.98506	.98262	.98020	.97779	.97539
108	.99800	.99602	.99404	.99208	.99012	.98818	.98624	.98431	.98240	.98049
109	.99900	.99801	.99702	.99603	.99505	.99407	.99310	.99213	.99116	.99020

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	2.2%	2.4%	2.6%	2.8%	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%
0	.20365	.17830	.15648	.13767	.12144	.10741	.09528	.08476	.07564	.06772
1	.20251	.17677	.15458	.13542	.11885	.10451	.09209	.08131	.07194	.06379
2	.20656	.18060	.15817	.13877	.12197	.10740	.09476	.08376	.07420	.06586
3	.21084	.18466	.16200	.14236	.12533	.11054	.09767	.08647	.07670	.06817
4	.21527	.18888	.16600	.14613	.12887	.11385	.10076	.08935	.07938	.07066
5	.21984	.19324	.17013	.15004	.13255	.11730	.10399	.09237	.08220	.07329
6	.22454	.19773	.17440	.15408	.13636	.12089	.10736	.09553	.08515	.07605
7	.22933	.20233	.17879	.15824	.14030	.12460	.11085	.09880	.08822	.07892
8	.23425	.20705	.18330	.16254	.14436	.12844	.11447	.10221	.09142	.08193
9	.23930	.21191	.18795	.16697	.14857	.13243	.11824	.10576	.09476	.08507
10	.24446	.21689	.19273	.17153	.15292	.13655	.12214	.10945	.09824	.08835
11	.24975	.22200	.19764	.17623	.15740	.14081	.12619	.11328	.10187	.09177
12	.25515	.22724	.20268	.18107	.16202	.14521	.13037	.11724	.10563	.09533
13	.26064	.23256	.20782	.18600	.16674	.14972	.13466	.12132	.10949	.09900
14	.26620	.23796	.21303	.19101	.17154	.15430	.13903	.12547	.11344	.10273
15	.27179	.24340	.21829	.19607	.17639	.15894	.14344	.12968	.11743	.10652
16	.27742	.24887	.22358	.20117	.18128	.16361	.14790	.13391	.12145	.11034
17	.28309	.25439	.22893	.20632	.18622	.16834	.15241	.13821	.12554	.11421
18	.28881	.25997	.23434	.21154	.19123	.17314	.15699	.14258	.12969	.11815
19	.29461	.26563	.23983	.21684	.19633	.17803	.16167	.14703	.13393	.12218
20	.30050	.27139	.24543	.22226	.20156	.18304	.16646	.15161	.13829	.12633
21	.30649	.27726	.25114	.22779	.20689	.18817	.17138	.15631	.14277	.13060
22	.31259	.28323	.25697	.23344	.21235	.19342	.17642	.16114	.14739	.13500
23	.31879	.28934	.26293	.23923	.21795	.19882	.18161	.16612	.15215	.13955
24	.32515	.29559	.26904	.24519	.22372	.20440	.18699	.17128	.15710	.14429
25	.33166	.30201	.27534	.25133	.22969	.21018	.19256	.17665	.16226	.14924
26	.33833	.30861	.28182	.25767	.23586	.21616	.19835	.18224	.16764	.15440
27	.34517	.31538	.28849	.26420	.24224	.22236	.20436	.18804	.17324	.15980
28	.35217	.32233	.29535	.27093	.24882	.22877	.21058	.19407	.17907	.16542
29	.35932	.32944	.30237	.27784	.25558	.23537	.21701	.20031	.18511	.17126
30	.36661	.33670	.30956	.28492	.26253	.24216	.22362	.20674	.19135	.17730
31	.37403	.34411	.31691	.29217	.26965	.24914	.23044	.21338	.19779	.18355
32	.38160	.35167	.32442	.29960	.27697	.25631	.23745	.22022	.20445	.19002
33	.38930	.35939	.33211	.30721	.28447	.26368	.24467	.22727	.21133	.19671
34	.39713	.36724	.33993	.31497	.29213	.27123	.25207	.23451	.21839	.20360

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

Interest Rate

AGE	2.2%	2.4%	2.6%	2.8%	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%
35	.40509	.37523	.34792	.32290	.29998	.27896	.25967	.24195	.22567	.21070
36	.41318	.38337	.35606	.33100	.30800	.28688	.26746	.24961	.23317	.21803
37	.42139	.39165	.36435	.33927	.31621	.29499	.27546	.25746	.24087	.22557
38	.42974	.40008	.37281	.34771	.32460	.30330	.28366	.26554	.24880	.23334
39	.43821	.40864	.38141	.35631	.33316	.31179	.29205	.27381	.25694	.24133
40	.44679	.41734	.39016	.36507	.34189	.32046	.30064	.28229	.26529	.24954
41	.45549	.42616	.39906	.37399	.35080	.32932	.30942	.29097	.27386	.25797
42	.46430	.43511	.40809	.38307	.35987	.33836	.31840	.29986	.28264	.26662
43	.47324	.44421	.41729	.39232	.36913	.34760	.32758	.30897	.29165	.27552
44	.48229	.45343	.42663	.40172	.37857	.35702	.33697	.31829	.30088	.28465
45	.49144	.46277	.43611	.41128	.38817	.36663	.34655	.32782	.31033	.29400
46	.50072	.47225	.44574	.42101	.39796	.37644	.35634	.33757	.32002	.30360
47	.51009	.48185	.45550	.43089	.40791	.38642	.36633	.34753	.32992	.31343
48	.51958	.49158	.46540	.44093	.41803	.39660	.37652	.35770	.34006	.32351
49	.52917	.50143	.47545	.45113	.42833	.40696	.38691	.36810	.35043	.33383
50	.53888	.51141	.48566	.46150	.43883	.41754	.39754	.37874	.36106	.34442
51	.54871	.52153	.49602	.47204	.44951	.42832	.40838	.38961	.37194	.35528
52	.55865	.53179	.50653	.48276	.46038	.43931	.41945	.40073	.38307	.36641
53	.56869	.54217	.51718	.49363	.47143	.45050	.43074	.41208	.39446	.37781
54	.57882	.55265	.52796	.50465	.48265	.46186	.44222	.42364	.40607	.38945
55	.58902	.56322	.53884	.51579	.49400	.47338	.45387	.43540	.41789	.40131
56	.59926	.57383	.54978	.52701	.50544	.48501	.46565	.44729	.42987	.41335
57	.60951	.58449	.56078	.53830	.51698	.49675	.47755	.45932	.44201	.42555
58	.61978	.59517	.57182	.54964	.52858	.50858	.48956	.47147	.45427	.43790
59	.63007	.60589	.58290	.56105	.54027	.52050	.50167	.48375	.46668	.45041
60	.64039	.61665	.59405	.57254	.55205	.53253	.51392	.49617	.47925	.46310
61	.65072	.62743	.60524	.58409	.56390	.54465	.52627	.50872	.49196	.47595
62	.66104	.63822	.61645	.59566	.57581	.55683	.53870	.52136	.50478	.48892
63	.67133	.64900	.62766	.60726	.58774	.56907	.55120	.53409	.51770	.50200
64	.68161	.65977	.63887	.61887	.59970	.58134	.56375	.54688	.53071	.51519
65	.69186	.67053	.65009	.63049	.61170	.59367	.57637	.55976	.54381	.52849
66	.70216	.68136	.66140	.64223	.62383	.60615	.58916	.57283	.55713	.54203
67	.71250	.69224	.67277	.65405	.63605	.61874	.60208	.58605	.57062	.55575
68	.72283	.70312	.68416	.66590	.64833	.63140	.61509	.59938	.58423	.56963
69	.73312	.71398	.69553	.67776	.66062	.64409	.62815	.61277	.59793	.58360
70	.74335	.72479	.70688	.68959	.67291	.65680	.64124	.62621	.61168	.59764

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	2.2%	2.4%	2.6%	2.8%	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%
71	.75353	.73556	.71819	.70141	.68519	.66951	.65434	.63968	.62549	.61176
72	.76364	.74626	.72945	.71318	.69744	.68220	.66745	.65317	.63933	.62593
73	.77365	.75686	.74061	.72487	.70962	.69484	.68051	.66662	.65315	.64009
74	.78350	.76733	.75164	.73643	.72167	.70735	.69346	.67997	.66688	.65417
75	.79318	.77761	.76249	.74781	.73355	.71971	.70625	.69318	.68048	.66813
76	.80266	.78769	.77314	.75899	.74524	.73187	.71886	.70621	.69390	.68192
77	.81194	.79756	.78358	.76997	.75672	.74382	.73127	.71904	.70713	.69553
78	.82100	.80722	.79380	.78072	.76798	.75556	.74346	.73166	.72016	.70894
79	.82984	.81664	.80378	.79124	.77900	.76706	.75542	.74405	.73296	.72213
80	.83843	.82582	.81351	.80149	.78976	.77830	.76711	.75618	.74550	.73507
81	.84678	.83474	.82298	.81148	.80025	.78927	.77853	.76803	.75777	.74773
82	.85487	.84339	.83217	.82119	.81045	.79994	.78966	.77959	.76974	.76009
83	.86269	.85177	.84107	.83060	.82035	.81030	.80047	.79083	.78139	.77214
84	.87024	.85986	.84968	.83970	.82993	.82035	.81095	.80174	.79271	.78385
85	.87751	.86765	.85798	.84849	.83919	.83005	.82110	.81230	.80368	.79521
86	.88450	.87515	.86597	.85696	.84811	.83942	.83089	.82251	.81428	.80619
87	.89119	.88234	.87363	.86508	.85668	.84843	.84031	.83234	.82450	.81679
88	.89760	.88922	.88099	.87289	.86492	.85708	.84938	.84180	.83434	.82700
89	.90372	.89580	.88801	.88034	.87280	.86537	.85806	.85087	.84378	.83681
90	.90954	.90207	.89471	.88746	.88032	.87329	.86637	.85954	.85282	.84620
91	.91508	.90803	.90109	.89424	.88750	.88085	.87429	.86783	.86146	.85518
92	.92033	.91369	.90714	.90068	.89432	.88803	.88184	.87572	.86969	.86374
93	.92530	.91904	.91287	.90678	.90078	.89484	.88899	.88321	.87751	.87188
94	.92999	.92411	.91830	.91256	.90690	.90130	.89578	.89032	.88493	.87961
95	.93442	.92889	.92342	.91802	.91269	.90741	.90220	.89706	.89197	.88694
96	.93858	.93338	.92824	.92316	.91813	.91316	.90825	.90340	.89859	.89385
97	.94248	.93759	.93276	.92798	.92325	.91857	.91395	.90937	.90484	.90036
98	.94614	.94155	.93701	.93252	.92807	.92367	.91931	.91500	.91073	.90650
99	.94959	.94528	.94101	.93679	.93260	.92846	.92436	.92030	.91628	.91229
100	.95278	.94874	.94473	.94075	.93682	.93292	.92906	.92523	.92144	.91769
101	.95581	.95201	.94824	.94451	.94081	.93715	.93352	.92992	.92635	.92281
102	.95860	.95503	.95149	.94798	.94450	.94105	.93763	.93424	.93088	.92754
103	.96136	.95802	.95470	.95142	.94816	.94492	.94171	.93853	.93538	.93224
104	.96390	.96077	.95766	.95458	.95152	.94848	.94547	.94248	.93951	.93657
105	.96640	.96347	.96057	.95769	.95483	.95199	.94917	.94637	.94359	.94083
106	.96950	.96684	.96420	.96157	.95896	.95636	.95379	.95123	.94868	.94616
107	.97301	.97064	.96829	.96595	.96362	.96131	.95901	.95672	.95445	.95219
108	.97859	.97670	.97482	.97295	.97109	.96923	.96739	.96555	.96373	.96191
109	.98924	.98828	.98733	.98638	.98544	.98450	.98356	.98263	.98170	.98077

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06083	.05483	.04959	.04501	.04101	.03749	.03441	.03170	.02931	.02721
1	.05668	.05049	.04507	.04034	.03618	.03254	.02934	.02652	.02403	.02183
2	.05858	.05222	.04665	.04178	.03750	.03373	.03042	.02750	.02492	.02264
3	.06072	.05420	.04848	.04346	.03904	.03516	.03173	.02871	.02603	.02366
4	.06303	.05634	.05046	.04530	.04075	.03674	.03319	.03006	.02729	.02483
5	.06547	.05861	.05258	.04726	.04258	.03844	.03478	.03153	.02866	.02610
6	.06805	.06102	.05482	.04935	.04453	.04026	.03647	.03312	.03014	.02749
7	.07074	.06353	.05717	.05155	.04658	.04217	.03826	.03479	.03171	.02895
8	.07356	.06617	.05964	.05386	.04875	.04421	.04017	.03658	.03338	.03053
9	.07651	.06895	.06225	.05631	.05105	.04637	.04220	.03849	.03518	.03222
10	.07960	.07185	.06499	.05889	.05347	.04865	.04435	.04052	.03709	.03402
11	.08283	.07490	.06786	.06160	.05603	.05106	.04663	.04267	.03912	.03594
12	.08620	.07808	.07087	.06444	.05871	.05360	.04903	.04494	.04127	.03798
13	.08967	.08137	.07397	.06738	.06149	.05623	.05152	.04729	.04351	.04010
14	.09321	.08472	.07715	.07038	.06433	.05892	.05406	.04971	.04579	.04227
15	.09680	.08812	.08036	.07342	.06721	.06164	.05664	.05214	.04810	.04445
16	.10041	.09154	.08360	.07649	.07011	.06438	.05923	.05459	.05041	.04664
17	.10409	.09502	.08689	.07960	.07305	.06716	.06185	.05707	.05276	.04886
18	.10782	.09855	.09024	.08276	.07604	.06998	.06452	.05959	.05514	.05111
19	.11164	.10217	.09366	.08600	.07910	.07288	.06726	.06218	.05758	.05341
20	.11559	.10592	.09721	.08937	.08228	.07589	.07010	.06487	.06012	.05582
21	.11965	.10977	.10087	.09283	.08557	.07900	.07305	.06765	.06276	.05831
22	.12383	.11376	.10465	.09642	.08897	.08223	.07610	.07055	.06550	.06090
23	.12817	.11789	.10859	.10016	.09252	.08559	.07930	.07358	.06837	.06363
24	.13270	.12221	.11270	.10408	.09625	.08914	.08267	.07678	.07141	.06651
25	.13744	.12674	.11703	.10821	.10019	.09289	.08625	.08018	.07465	.06960
26	.14239	.13149	.12158	.11256	.10435	.09686	.09003	.08380	.07810	.07288
27	.14758	.13647	.12636	.11714	.10873	.10106	.09405	.08764	.08177	.07639
28	.15300	.14169	.13137	.12195	.11335	.10549	.09829	.09171	.08567	.08012
29	.15864	.14712	.13660	.12698	.11819	.11013	.10275	.09598	.08977	.08406
30	.16448	.15275	.14203	.13222	.12323	.11498	.10742	.10047	.09408	.08820
31	.17053	.15861	.14769	.13768	.12849	.12006	.11230	.10517	.09860	.09255
32	.17680	.16468	.15357	.14336	.13398	.12535	.11741	.11009	.10335	.09712
33	.18330	.17099	.15968	.14927	.13970	.13088	.12275	.11525	.10832	.10192
34	.19000	.17750	.16599	.15539	.14562	.13661	.12829	.12061	.11350	.10693

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
35	.19692	.18423	.17253	.16174	.15178	.14258	.13408	.12621	.11892	.11217
36	.20407	.19119	.17931	.16833	.15818	.14879	.14009	.13204	.12457	.11764
37	.21144	.19838	.18631	.17515	.16481	.15523	.14635	.13811	.13046	.12335
38	.21904	.20582	.19357	.18222	.17170	.16193	.15287	.14444	.13661	.12932
39	.22687	.21348	.20105	.18952	.17882	.16887	.15962	.15102	.14300	.13554
40	.23493	.22137	.20878	.19707	.18619	.17606	.16663	.15784	.14965	.14201
41	.24322	.22950	.21674	.20487	.19381	.18350	.17390	.16493	.15656	.14873
42	.25173	.23786	.22494	.21290	.20168	.19120	.18141	.17227	.16372	.15572
43	.26049	.24648	.23342	.22122	.20982	.19918	.18922	.17990	.17118	.16301
44	.26950	.25535	.24214	.22979	.21824	.20742	.19730	.18781	.17892	.17057
45	.27874	.26447	.25112	.23862	.22692	.21595	.20566	.19600	.18694	.17843
46	.28824	.27385	.26038	.24774	.23589	.22476	.21431	.20450	.19527	.18659
47	.29798	.28349	.26989	.25712	.24513	.23386	.22326	.21328	.20390	.19505
48	.30797	.29338	.27967	.26678	.25466	.24325	.23250	.22238	.21283	.20383
49	.31822	.30355	.28974	.27674	.26449	.25294	.24206	.23179	.22210	.21294
50	.32876	.31401	.30011	.28701	.27465	.26298	.25196	.24156	.23172	.22242
51	.33958	.32477	.31079	.29759	.28513	.27335	.26221	.25168	.24170	.23226
52	.35068	.33582	.32178	.30851	.29595	.28407	.27282	.26216	.25206	.24249
53	.36206	.34717	.33308	.31974	.30710	.29513	.28378	.27301	.26279	.25309
54	.37371	.35880	.34467	.33127	.31857	.30651	.29507	.28420	.27388	.26406
55	.38559	.37067	.35652	.34308	.33032	.31820	.30668	.29572	.28529	.27537
56	.39765	.38275	.36859	.35512	.34232	.33014	.31855	.30751	.29699	.28697
57	.40990	.39502	.38086	.36739	.35455	.34233	.33068	.31957	.30898	.29887
58	.42231	.40747	.39333	.37985	.36700	.35474	.34304	.33188	.32121	.31103
59	.43490	.42011	.40600	.39253	.37968	.36740	.35567	.34446	.33374	.32348
60	.44768	.43296	.41890	.40546	.39261	.38033	.36858	.35733	.34656	.33625
61	.46064	.44600	.43200	.41860	.40578	.39351	.38175	.37048	.35968	.34933
62	.47373	.45920	.44527	.43194	.41915	.40690	.39514	.38387	.37305	.36267
63	.48696	.47253	.45870	.44544	.43271	.42049	.40876	.39749	.38666	.37625
64	.50030	.48601	.47229	.45911	.44645	.43428	.42258	.41133	.40051	.39010
65	.51377	.49963	.48603	.47295	.46037	.44827	.43662	.42540	.41460	.40420
66	.52750	.51352	.50007	.48711	.47464	.46262	.45103	.43987	.42911	.41872
67	.54144	.52765	.51436	.50154	.48919	.47727	.46578	.45468	.44397	.43363
68	.55554	.54196	.52885	.51619	.50398	.49218	.48079	.46978	.45915	.44887
69	.56976	.55640	.54349	.53102	.51896	.50731	.49603	.48513	.47458	.46438
70	.58407	.57095	.55826	.54598	.53410	.52260	.51147	.50069	.49025	.48013

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
71	.59848	.58561	.57316	.56109	.54940	.53808	.52710	.51646	.50615	.49614
72	.61294	.60035	.58815	.57632	.56484	.55371	.54291	.53243	.52225	.51237
73	.62741	.61512	.60318	.59160	.58035	.56943	.55882	.54851	.53849	.52876
74	.64183	.62983	.61818	.60686	.59586	.58516	.57476	.56464	.55480	.54523
75	.65612	.64444	.63309	.62204	.61129	.60083	.59065	.58074	.57109	.56169
76	.67026	.65891	.64786	.63710	.62661	.61640	.60646	.59676	.58731	.57810
77	.68423	.67321	.66248	.65201	.64181	.63186	.62215	.61269	.60345	.59444
78	.69800	.68733	.67692	.66676	.65684	.64717	.63772	.62849	.61948	.61068
79	.71156	.70124	.69116	.68132	.67170	.66230	.65312	.64414	.63537	.62680
80	.72487	.71490	.70516	.69563	.68632	.67721	.66830	.65959	.65106	.64272
81	.73791	.72830	.71890	.70970	.70069	.69188	.68325	.67481	.66654	.65844
82	.75065	.74140	.73235	.72348	.71479	.70628	.69794	.68977	.68176	.67391
83	.76308	.75419	.74548	.73695	.72858	.72037	.71232	.70443	.69669	.68909
84	.77516	.76664	.75828	.75008	.74203	.73413	.72638	.71877	.71130	.70396
85	.78689	.77873	.77072	.76285	.75512	.74753	.74008	.73275	.72556	.71849
86	.79825	.79044	.78278	.77524	.76783	.76055	.75340	.74636	.73944	.73264
87	.80921	.80176	.79443	.78722	.78014	.77316	.76630	.75956	.75292	.74638
88	.81978	.81268	.80569	.79880	.79203	.78536	.77880	.77234	.76598	.75971
89	.82994	.82317	.81651	.80995	.80349	.79712	.79085	.78467	.77859	.77259
90	.83967	.83324	.82690	.82065	.81450	.80843	.80244	.79655	.79073	.78500
91	.84898	.84288	.83685	.83091	.82505	.81928	.81358	.80795	.80241	.79693
92	.85787	.85208	.84636	.84072	.83515	.82966	.82423	.81888	.81360	.80838
93	.86632	.86083	.85541	.85006	.84477	.83955	.83440	.82931	.82428	.81931
94	.87435	.86915	.86402	.85894	.85393	.84898	.84409	.83925	.83447	.82975
95	.88197	.87705	.87219	.86739	.86265	.85795	.85331	.84872	.84419	.83970
96	.88915	.88451	.87991	.87537	.87088	.86643	.86203	.85768	.85338	.84912
97	.89593	.89154	.88720	.88290	.87865	.87444	.87028	.86616	.86208	.85804
98	.90232	.89818	.89408	.89002	.88600	.88202	.87808	.87418	.87031	.86649
99	.90835	.90444	.90057	.89674	.89294	.88918	.88546	.88177	.87811	.87449
100	.91397	.91028	.90663	.90301	.89942	.89587	.89234	.88885	.88539	.88196
101	.91930	.91583	.91238	.90897	.90558	.90223	.89890	.89560	.89233	.88908
102	.92424	.92096	.91771	.91448	.91128	.90811	.90496	.90184	.89875	.89568
103	.92914	.92605	.92300	.91996	.91695	.91397	.91100	.90806	.90514	.90225
104	.93364	.93074	.92786	.92501	.92217	.91935	.91656	.91379	.91103	.90830
105	.93809	.93537	.93266	.92998	.92731	.92467	.92204	.91943	.91683	.91426
106	.94365	.94115	.93867	.93621	.93376	.93133	.92892	.92651	.92413	.92176
107	.94994	.94771	.94549	.94328	.94108	.93890	.93673	.93457	.93242	.93028
108	.96010	.95830	.95651	.95472	.95295	.95118	.94942	.94767	.94593	.94420
109	.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.02534	.02370	.02223	.02093	.01978	.01874	.01782	.01699	.01625	.01559
1	.01989	.01817	.01664	.01528	.01406	.01298	.01202	.01115	.01037	.00967
2	.02061	.01882	.01722	.01580	.01454	.01340	.01239	.01148	.01066	.00993
3	.02156	.01969	.01802	.01654	.01521	.01403	.01297	.01201	.01115	.01038
4	.02264	.02069	.01896	.01741	.01602	.01478	.01367	.01267	.01176	.01095
5	.02383	.02180	.01999	.01838	.01693	.01563	.01446	.01341	.01246	.01161
6	.02512	.02301	.02113	.01944	.01793	.01657	.01535	.01424	.01325	.01235
7	.02650	.02430	.02234	.02058	.01900	.01758	.01630	.01514	.01410	.01315
8	.02798	.02570	.02365	.02182	.02017	.01868	.01734	.01613	.01503	.01404
9	.02957	.02720	.02507	.02316	.02143	.01988	.01848	.01721	.01606	.01502
10	.03128	.02881	.02659	.02460	.02280	.02118	.01971	.01838	.01718	.01608
11	.03309	.03053	.02823	.02615	.02428	.02258	.02105	.01966	.01839	.01725
12	.03503	.03237	.02997	.02781	.02585	.02408	.02248	.02103	.01971	.01850
13	.03704	.03428	.03179	.02954	.02750	.02565	.02398	.02246	.02108	.01982
14	.03909	.03623	.03364	.03130	.02918	.02726	.02551	.02392	.02248	.02116
15	.04117	.03820	.03551	.03308	.03087	.02886	.02704	.02538	.02387	.02249
16	.04324	.04016	.03737	.03484	.03254	.03046	.02855	.02682	.02524	.02379
17	.04533	.04214	.03924	.03661	.03422	.03205	.03007	.02826	.02661	.02509
18	.04746	.04415	.04114	.03841	.03592	.03366	.03159	.02970	.02798	.02639
19	.04963	.04620	.04309	.04025	.03766	.03530	.03315	.03117	.02937	.02772
20	.05191	.04835	.04512	.04217	.03948	.03702	.03478	.03272	.03083	.02910
21	.05427	.05058	.04723	.04416	.04137	.03881	.03647	.03432	.03235	.03054
22	.05672	.05291	.04943	.04625	.04334	.04067	.03823	.03599	.03394	.03205
23	.05930	.05535	.05174	.04844	.04542	.04265	.04010	.03777	.03562	.03364
24	.06204	.05795	.05421	.05078	.04764	.04476	.04211	.03967	.03743	.03536
25	.06497	.06074	.05687	.05331	.05005	.04705	.04429	.04174	.03940	.03724
26	.06811	.06373	.05972	.05603	.05264	.04952	.04665	.04400	.04155	.03929
27	.07146	.06694	.06278	.05895	.05543	.05219	.04920	.04644	.04389	.04153
28	.07503	.07036	.06605	.06209	.05844	.05507	.05196	.04908	.04642	.04396
29	.07881	.07398	.06953	.06542	.06163	.05814	.05490	.05191	.04913	.04656
30	.08279	.07780	.07319	.06894	.06502	.06138	.05802	.05491	.05202	.04933
31	.08697	.08182	.07707	.07267	.06860	.06483	.06134	.05810	.05509	.05229
32	.09137	.08606	.08115	.07660	.07239	.06848	.06485	.06148	.05835	.05543
33	.09601	.09053	.08546	.08075	.07639	.07234	.06858	.06508	.06182	.05878
34	.10084	.09520	.08996	.08511	.08059	.07640	.07249	.06886	.06547	.06231

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
35	.10590	.10009	.09470	.08968	.08501	.08067	.07662	.07285	.06933	.06605
36	.11120	.10522	.09966	.09448	.08966	.08517	.08098	.07706	.07341	.06999
37	.11674	.11059	.10486	.09952	.09454	.08990	.08556	.08150	.07771	.07416
38	.12254	.11621	.11032	.10481	.09968	.09487	.09039	.08618	.08225	.07856
39	.12857	.12208	.11601	.11035	.10505	.10009	.09545	.09110	.08702	.08320
40	.13487	.12820	.12196	.11613	.11067	.10555	.10076	.09626	.09204	.08807
41	.14142	.13458	.12817	.12217	.11655	.11127	.10632	.10167	.09730	.09319
42	.14823	.14122	.13464	.12848	.12269	.11725	.11214	.10734	.10282	.09856
43	.15535	.14816	.14141	.13508	.12913	.12353	.11826	.11330	.10863	.10422
44	.16274	.15538	.14847	.14196	.13585	.13008	.12466	.11954	.11472	.11016
45	.17042	.16290	.15581	.14914	.14286	.13694	.13135	.12608	.12110	.11640
46	.17842	.17073	.16348	.15664	.15020	.14411	.13836	.13293	.12780	.12294
47	.18672	.17886	.17145	.16445	.15784	.15159	.14568	.14010	.13481	.12980
48	.19534	.18732	.17974	.17258	.16581	.15940	.15334	.14759	.14215	.13699
49	.20429	.19612	.18838	.18106	.17413	.16757	.16134	.15544	.14984	.14453
50	.21362	.20529	.19740	.18993	.18284	.17612	.16974	.16368	.15793	.15247
51	.22332	.21484	.20680	.19917	.19194	.18506	.17853	.17232	.16642	.16080
52	.23341	.22479	.21660	.20883	.20144	.19442	.18774	.18138	.17533	.16957
53	.24388	.23513	.22681	.21889	.21136	.20419	.19737	.19087	.18467	.17876
54	.25473	.24585	.23739	.22935	.22168	.21437	.20741	.20076	.19442	.18837
55	.26593	.25693	.24835	.24017	.23238	.22494	.21784	.21105	.20458	.19838
56	.27742	.26831	.25962	.25132	.24340	.23583	.22860	.22169	.21508	.20875
57	.28922	.28001	.27121	.26280	.25476	.24707	.23971	.23267	.22593	.21947
58	.30129	.29199	.28309	.27457	.26642	.25862	.25114	.24398	.23712	.23053
59	.31367	.30428	.29529	.28667	.27842	.27051	.26293	.25565	.24867	.24197
60	.32638	.31691	.30784	.29914	.29079	.28278	.27509	.26771	.26062	.25380
61	.33940	.32987	.32073	.31195	.30352	.29542	.28763	.28015	.27295	.26603
62	.35269	.34311	.33391	.32506	.31656	.30837	.30050	.29293	.28564	.27862
63	.36625	.35663	.34738	.33847	.32990	.32165	.31370	.30604	.29867	.29155
64	.38007	.37043	.36113	.35218	.34356	.33524	.32723	.31950	.31204	.30484
65	.39417	.38451	.37519	.36620	.35753	.34917	.34110	.33330	.32577	.31850
66	.40871	.39905	.38972	.38071	.37201	.36361	.35550	.34765	.34006	.33273
67	.42365	.41400	.40468	.39567	.38696	.37853	.37038	.36250	.35487	.34749
68	.43892	.42931	.42001	.41101	.40230	.39387	.38570	.37780	.37014	.36272
69	.45450	.44493	.43567	.42670	.41800	.40958	.40141	.39350	.38582	.37837
70	.47033	.46083	.45162	.44269	.43403	.42563	.41748	.40957	.40189	.39443

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
71	.48644	.47702	.46788	.45901	.45040	.44203	.43391	.42602	.41835	.41090
72	.50278	.49347	.48441	.47562	.46707	.45877	.45069	.44284	.43520	.42776
73	.51930	.51010	.50115	.49245	.48399	.47575	.46774	.45994	.45234	.44494
74	.53591	.52684	.51802	.50943	.50106	.49291	.48497	.47724	.46970	.46235
75	.55253	.54361	.53492	.52645	.51820	.51015	.50230	.49465	.48719	.47991
76	.56912	.56036	.55182	.54349	.53536	.52742	.51968	.51213	.50475	.49754
77	.58565	.57706	.56868	.56050	.55251	.54471	.53708	.52964	.52236	.51525
78	.60209	.59369	.58549	.57747	.56963	.56197	.55448	.54715	.53999	.53298
79	.61841	.61021	.60219	.59435	.58668	.57917	.57182	.56463	.55760	.55071
80	.63456	.62657	.61875	.61109	.60359	.59625	.58906	.58202	.57512	.56836
81	.65050	.64273	.63512	.62766	.62034	.61318	.60616	.59927	.59252	.58590
82	.66621	.65867	.65127	.64401	.63690	.62992	.62308	.61636	.60977	.60330
83	.68164	.67433	.66716	.66012	.65321	.64642	.63976	.63322	.62680	.62050
84	.69676	.68969	.68275	.67593	.66923	.66265	.65618	.64983	.64358	.63745
85	.71154	.70472	.69801	.69141	.68493	.67856	.67229	.66613	.66007	.65412
86	.72595	.71937	.71290	.70654	.70028	.69412	.68806	.68210	.67623	.67046
87	.73995	.73362	.72740	.72127	.71523	.70929	.70344	.69768	.69201	.68642
88	.75354	.74746	.74148	.73558	.72978	.72406	.71842	.71287	.70739	.70200
89	.76668	.76085	.75511	.74945	.74387	.73837	.73295	.72761	.72234	.71714
90	.77934	.77377	.76827	.76284	.75749	.75222	.74701	.74188	.73681	.73181
91	.79153	.78620	.78094	.77575	.77063	.76558	.76059	.75566	.75080	.74600
92	.80323	.79814	.79312	.78816	.78326	.77843	.77365	.76894	.76428	.75967
93	.81440	.80956	.80477	.80004	.79536	.79074	.78618	.78166	.77721	.77280
94	.82508	.82047	.81591	.81140	.80694	.80253	.79817	.79387	.78961	.78539
95	.83526	.83088	.82654	.82225	.81800	.81380	.80965	.80554	.80148	.79746
96	.84491	.84074	.83662	.83254	.82850	.82450	.82055	.81663	.81276	.80892
97	.85405	.85009	.84617	.84230	.83846	.83466	.83089	.82717	.82348	.81982
98	.86270	.85895	.85523	.85155	.84791	.84430	.84072	.83718	.83367	.83019
99	.87090	.86735	.86382	.86033	.85687	.85345	.85005	.84668	.84335	.84004
100	.87856	.87519	.87185	.86854	.86526	.86201	.85878	.85559	.85242	.84927
101	.88587	.88268	.87952	.87638	.87327	.87019	.86713	.86409	.86109	.85810
102	.89263	.88961	.88662	.88364	.88069	.87777	.87487	.87199	.86913	.86629
103	.89938	.89653	.89370	.89089	.88810	.88534	.88259	.87987	.87717	.87448
104	.90558	.90289	.90021	.89756	.89492	.89231	.88971	.88713	.88456	.88202
105	.91170	.90916	.90664	.90413	.90164	.89917	.89672	.89428	.89186	.88945
106	.91940	.91706	.91474	.91242	.91013	.90784	.90558	.90332	.90108	.89885
107	.92816	.92605	.92395	.92186	.91978	.91772	.91567	.91362	.91159	.90957
108	.94247	.94075	.93904	.93734	.93565	.93396	.93229	.93062	.92895	.92730
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01498	.01444	.01395	.01351	.01310	.01273	.01240	.01209	.01181	.01155
1	.00904	.00847	.00796	.00749	.00707	.00668	.00633	.00601	.00572	.00545
2	.00926	.00866	.00812	.00763	.00718	.00677	.00640	.00606	.00575	.00547
3	.00968	.00905	.00848	.00796	.00748	.00705	.00666	.00630	.00597	.00567
4	.01021	.00955	.00894	.00839	.00789	.00744	.00702	.00664	.00629	.00597
5	.01083	.01013	.00949	.00891	.00839	.00790	.00746	.00706	.00669	.00635
6	.01153	.01080	.01012	.00951	.00895	.00844	.00798	.00755	.00715	.00679
7	.01229	.01151	.01081	.01016	.00957	.00903	.00854	.00808	.00767	.00728
8	.01314	.01232	.01157	.01089	.01026	.00969	.00917	.00869	.00825	.00784
9	.01407	.01321	.01242	.01170	.01104	.01044	.00989	.00938	.00891	.00848
10	.01509	.01418	.01335	.01259	.01190	.01126	.01068	.01014	.00965	.00919
11	.01620	.01525	.01437	.01358	.01285	.01218	.01156	.01099	.01047	.00998
12	.01740	.01640	.01549	.01465	.01388	.01317	.01252	.01192	.01137	.01086
13	.01867	.01762	.01665	.01577	.01496	.01422	.01353	.01290	.01231	.01177
14	.01995	.01885	.01784	.01691	.01606	.01527	.01455	.01389	.01327	.01270
15	.02123	.02007	.01901	.01803	.01714	.01632	.01556	.01485	.01420	.01360
16	.02247	.02126	.02015	.01913	.01818	.01732	.01652	.01578	.01509	.01446
17	.02371	.02244	.02127	.02020	.01921	.01830	.01746	.01668	.01596	.01529
18	.02494	.02361	.02239	.02126	.02022	.01926	.01838	.01756	.01680	.01610
19	.02620	.02480	.02352	.02234	.02125	.02024	.01931	.01844	.01764	.01690
20	.02751	.02605	.02471	.02346	.02232	.02126	.02028	.01937	.01853	.01775
21	.02888	.02735	.02593	.02463	.02343	.02231	.02128	.02032	.01944	.01861
22	.03030	.02870	.02722	.02585	.02458	.02341	.02233	.02132	.02038	.01951
23	.03181	.03013	.02858	.02714	.02581	.02458	.02344	.02237	.02139	.02047
24	.03345	.03169	.03006	.02855	.02715	.02586	.02465	.02353	.02249	.02152
25	.03524	.03340	.03169	.03010	.02863	.02727	.02600	.02482	.02373	.02270
26	.03720	.03527	.03348	.03181	.03027	.02884	.02750	.02626	.02510	.02402
27	.03934	.03732	.03544	.03370	.03208	.03057	.02916	.02786	.02664	.02549
28	.04167	.03955	.03759	.03576	.03406	.03247	.03099	.02962	.02833	.02713
29	.04417	.04196	.03990	.03798	.03619	.03453	.03298	.03153	.03017	.02890
30	.04684	.04452	.04237	.04036	.03848	.03674	.03510	.03358	.03215	.03081
31	.04969	.04727	.04501	.04291	.04094	.03911	.03739	.03579	.03428	.03287
32	.05272	.05019	.04783	.04563	.04357	.04165	.03984	.03816	.03657	.03509
33	.05595	.05331	.05085	.04854	.04639	.04437	.04248	.04070	.03904	.03748
34	.05936	.05661	.05403	.05162	.04936	.04725	.04527	.04341	.04166	.04001

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
35	.06297	.06010	.05741	.05489	.05253	.05032	.04824	.04629	.04445	.04272
36	.06679	.06380	.06100	.05837	.05590	.05358	.05140	.04935	.04742	.04561
37	.07083	.06771	.06479	.06204	.05947	.05704	.05476	.05261	.05059	.04868
38	.07511	.07186	.06881	.06595	.06326	.06072	.05834	.05609	.05397	.05196
39	.07961	.07623	.07306	.07007	.06726	.06462	.06212	.05977	.05754	.05544
40	.08434	.08083	.07753	.07442	.07149	.06873	.06612	.06366	.06133	.05913
41	.08932	.08568	.08225	.07901	.07596	.07308	.07035	.06778	.06534	.06304
42	.09455	.09077	.08720	.08384	.08066	.07766	.07481	.07213	.06958	.06717
43	.10007	.09615	.09245	.08895	.08564	.08251	.07955	.07674	.07408	.07156
44	.10586	.10180	.09796	.09433	.09089	.08763	.08454	.08162	.07884	.07621
45	.11195	.10774	.10376	.09999	.09642	.09303	.08982	.08677	.08387	.08112
46	.11835	.11400	.10987	.10596	.10225	.09873	.09539	.09222	.08920	.08633
47	.12505	.12055	.11629	.11224	.10839	.10474	.10126	.09796	.09482	.09182
48	.13209	.12745	.12303	.11884	.11485	.11106	.10746	.10402	.10075	.09764
49	.13948	.13469	.13013	.12579	.12167	.11774	.11400	.11043	.10703	.10379
50	.14727	.14233	.13762	.13314	.12887	.12481	.12093	.11723	.11370	.11033
51	.15546	.15037	.14551	.14089	.13648	.13228	.12826	.12443	.12077	.11726
52	.16407	.15884	.15384	.14907	.14452	.14018	.13603	.13206	.12826	.12463
53	.17312	.16774	.16260	.15769	.15300	.14852	.14423	.14012	.13620	.13243
54	.18259	.17707	.17179	.16674	.16191	.15729	.15286	.14862	.14456	.14067
55	.19247	.18680	.18139	.17620	.17123	.16648	.16192	.15755	.15335	.14933
56	.20270	.19690	.19135	.18602	.18092	.17603	.17134	.16684	.16251	.15836
57	.21329	.20736	.20167	.19622	.19099	.18596	.18114	.17650	.17205	.16777
58	.22422	.21816	.21235	.20677	.20140	.19625	.19130	.18653	.18195	.17754
59	.23553	.22935	.22341	.21770	.21221	.20693	.20185	.19696	.19225	.18772
60	.24725	.24095	.23489	.22906	.22345	.21805	.21285	.20783	.20300	.19834
61	.25937	.25296	.24679	.24084	.23511	.22959	.22427	.21914	.21419	.20941
62	.27185	.26534	.25906	.25300	.24716	.24153	.23609	.23084	.22577	.22088
63	.28469	.27808	.27169	.26553	.25959	.25384	.24830	.24294	.23776	.23275
64	.29789	.29119	.28471	.27845	.27240	.26656	.26091	.25544	.25016	.24504
65	.31148	.30468	.29812	.29177	.28563	.27969	.27394	.26837	.26299	.25777
66	.32564	.31877	.31213	.30570	.29948	.29345	.28761	.28195	.27647	.27115
67	.34034	.33341	.32671	.32021	.31391	.30780	.30188	.29614	.29057	.28517
68	.35552	.34855	.34179	.33523	.32887	.32270	.31671	.31089	.30524	.29976
69	.37115	.36414	.35734	.35073	.34432	.33809	.33204	.32616	.32045	.31489
70	.38719	.38016	.37332	.36668	.36023	.35396	.34786	.34193	.33616	.33054

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
71	.40366	.39662	.38977	.38311	.37663	.37032	.36419	.35821	.35240	.34674
72	.42053	.41350	.40665	.39998	.39349	.38716	.38100	.37500	.36916	.36346
73	.43774	.43073	.42389	.41723	.41074	.40441	.39824	.39222	.38636	.38063
74	.45519	.44821	.44140	.43476	.42829	.42197	.41580	.40979	.40391	.39818
75	.47280	.46587	.45910	.45250	.44605	.43975	.43360	.42759	.42173	.41599
76	.49051	.48364	.47693	.47037	.46396	.45770	.45158	.44560	.43975	.43403
77	.50830	.50150	.49486	.48836	.48201	.47580	.46972	.46377	.45795	.45225
78	.52613	.51942	.51286	.50644	.50015	.49400	.48797	.48208	.47630	.47064
79	.54396	.53736	.53089	.52456	.51835	.51227	.50632	.50048	.49476	.48915
80	.56174	.55525	.54888	.54265	.53653	.53054	.52466	.51890	.51325	.50770
81	.57941	.57305	.56681	.56068	.55467	.54878	.54299	.53731	.53174	.52627
82	.59696	.59073	.58461	.57861	.57272	.56693	.56125	.55566	.55018	.54480
83	.61430	.60822	.60224	.59637	.59061	.58494	.57937	.57389	.56851	.56322
84	.63142	.62549	.61966	.61393	.60830	.60276	.59731	.59196	.58669	.58150
85	.64825	.64249	.63682	.63124	.62575	.62035	.61503	.60980	.60465	.59958
86	.66477	.65918	.65367	.64825	.64291	.63765	.63248	.62738	.62236	.61741
87	.68092	.67550	.67016	.66490	.65972	.65462	.64959	.64463	.63975	.63493
88	.69669	.69145	.68628	.68119	.67618	.67123	.66635	.66154	.65680	.65212
89	.71201	.70696	.70198	.69706	.69221	.68742	.68270	.67805	.67345	.66892
90	.72688	.72201	.71721	.71246	.70779	.70317	.69861	.69411	.68966	.68528
91	.74126	.73658	.73196	.72739	.72289	.71844	.71404	.70970	.70541	.70117
92	.75513	.75063	.74620	.74181	.73748	.73320	.72897	.72479	.72066	.71657
93	.76844	.76414	.75988	.75568	.75152	.74741	.74334	.73932	.73535	.73142
94	.78123	.77711	.77303	.76901	.76502	.76108	.75718	.75332	.74951	.74573
95	.79348	.78954	.78565	.78179	.77798	.77421	.77047	.76677	.76312	.75950
96	.80513	.80137	.79765	.79397	.79032	.78671	.78314	.77960	.77610	.77263
97	.81621	.81262	.80908	.80556	.80208	.79864	.79522	.79184	.78849	.78517
98	.82674	.82333	.81995	.81660	.81328	.80999	.80673	.80351	.80031	.79713
99	.83677	.83352	.83030	.82711	.82395	.82082	.81771	.81463	.81158	.80855
100	.84616	.84307	.84001	.83697	.83396	.83097	.82801	.82507	.82216	.81927
101	.85514	.85221	.84930	.84641	.84355	.84070	.83788	.83509	.83231	.82956
102	.86348	.86069	.85792	.85517	.85245	.84974	.84706	.84439	.84175	.83912
103	.87182	.86918	.86655	.86395	.86136	.85880	.85625	.85372	.85121	.84872
104	.87950	.87699	.87450	.87203	.86957	.86713	.86471	.86231	.85992	.85755
105	.88706	.88468	.88232	.87998	.87765	.87534	.87304	.87076	.86849	.86624
106	.89664	.89444	.89225	.89008	.88792	.88577	.88364	.88152	.87941	.87731
107	.90756	.90557	.90358	.90160	.89964	.89768	.89574	.89380	.89188	.88997
108	.92565	.92401	.92238	.92075	.91914	.91753	.91592	.91433	.91274	.91116
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01132	.01110	.01089	.01071	.01053	.01037	.01022	.01008	.00995	.00983
1	.00520	.00497	.00476	.00457	.00439	.00423	.00407	.00393	.00379	.00367
2	.00521	.00496	.00474	.00454	.00435	.00417	.00401	.00385	.00371	.00358
3	.00539	.00513	.00490	.00468	.00447	.00429	.00411	.00395	.00380	.00366
4	.00567	.00540	.00515	.00492	.00470	.00450	.00432	.00414	.00398	.00383
5	.00603	.00574	.00547	.00523	.00500	.00478	.00459	.00440	.00423	.00407
6	.00646	.00615	.00587	.00560	.00536	.00513	.00492	.00472	.00453	.00436
7	.00693	.00660	.00630	.00602	.00576	.00551	.00529	.00508	.00488	.00469
8	.00747	.00712	.00680	.00650	.00622	.00596	.00572	.00549	.00528	.00509
9	.00808	.00771	.00737	.00705	.00675	.00648	.00622	.00598	.00576	.00555
10	.00877	.00838	.00801	.00767	.00736	.00707	.00679	.00654	.00630	.00608
11	.00954	.00912	.00873	.00838	.00804	.00773	.00744	.00717	.00692	.00668
12	.01038	.00994	.00953	.00915	.00880	.00847	.00816	.00788	.00761	.00735
13	.01127	.01081	.01038	.00998	.00960	.00925	.00893	.00862	.00833	.00806
14	.01217	.01168	.01122	.01080	.01040	.01003	.00969	.00937	.00906	.00878
15	.01305	.01253	.01205	.01160	.01118	.01079	.01042	.01008	.00976	.00946
16	.01387	.01333	.01282	.01234	.01190	.01149	.01110	.01074	.01040	.01009
17	.01467	.01409	.01356	.01306	.01259	.01216	.01175	.01137	.01101	.01067
18	.01544	.01484	.01427	.01374	.01325	.01279	.01236	.01195	.01157	.01122
19	.01621	.01557	.01497	.01442	.01390	.01341	.01295	.01253	.01213	.01175
20	.01702	.01634	.01571	.01512	.01457	.01406	.01357	.01312	.01270	.01230
21	.01784	.01713	.01646	.01584	.01526	.01471	.01420	.01372	.01327	.01285
22	.01870	.01794	.01724	.01658	.01596	.01539	.01485	.01434	.01386	.01342
23	.01961	.01881	.01807	.01737	.01672	.01611	.01554	.01500	.01449	.01402
24	.02062	.01977	.01899	.01825	.01756	.01691	.01630	.01573	.01520	.01469
25	.02175	.02085	.02002	.01924	.01851	.01782	.01718	.01657	.01600	.01547
26	.02301	.02207	.02119	.02036	.01958	.01886	.01817	.01753	.01692	.01635
27	.02443	.02343	.02250	.02162	.02080	.02003	.01930	.01862	.01798	.01737
28	.02600	.02495	.02396	.02303	.02216	.02134	.02057	.01985	.01916	.01852
29	.02771	.02660	.02555	.02457	.02365	.02278	.02197	.02120	.02047	.01979
30	.02956	.02838	.02728	.02624	.02526	.02434	.02348	.02266	.02189	.02116
31	.03155	.03031	.02914	.02804	.02701	.02604	.02512	.02425	.02344	.02266
32	.03370	.03239	.03115	.02999	.02890	.02787	.02690	.02598	.02511	.02429
33	.03601	.03463	.03333	.03210	.03095	.02985	.02883	.02785	.02693	.02606
34	.03847	.03701	.03564	.03434	.03312	.03197	.03088	.02985	.02887	.02795

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
35	.04109	.03956	.03811	.03675	.03546	.03424	.03308	.03199	.03096	.02998
36	.04390	.04228	.04076	.03932	.03795	.03667	.03545	.03429	.03320	.03216
37	.04688	.04518	.04358	.04206	.04062	.03926	.03798	.03676	.03560	.03450
38	.05007	.04829	.04660	.04500	.04349	.04205	.04069	.03940	.03818	.03701
39	.05346	.05158	.04981	.04812	.04653	.04502	.04358	.04222	.04092	.03969
40	.05705	.05508	.05321	.05144	.04976	.04817	.04666	.04522	.04385	.04255
41	.06086	.05879	.05683	.05497	.05320	.05152	.04993	.04841	.04697	.04559
42	.06488	.06271	.06066	.05870	.05684	.05508	.05340	.05180	.05028	.04882
43	.06917	.06690	.06474	.06269	.06074	.05888	.05711	.05543	.05382	.05229
44	.07370	.07132	.06906	.06691	.06486	.06291	.06105	.05928	.05759	.05598
45	.07850	.07602	.07365	.07139	.06924	.06719	.06524	.06338	.06160	.05990
46	.08360	.08100	.07852	.07616	.07390	.07176	.06970	.06775	.06587	.06409
47	.08897	.08626	.08367	.08120	.07884	.07659	.07443	.07238	.07041	.06853
48	.09466	.09183	.08912	.08654	.08407	.08172	.07946	.07730	.07524	.07326
49	.10069	.09774	.09492	.09222	.08964	.08717	.08481	.08255	.08038	.07831
50	.10711	.10403	.10109	.09827	.09558	.09300	.09053	.08816	.08589	.08371
51	.11392	.11072	.10765	.10472	.10191	.09921	.09663	.09415	.09178	.08950
52	.12116	.11783	.11464	.11159	.10866	.10585	.10315	.10057	.09808	.09569
53	.12883	.12538	.12206	.11889	.11584	.11291	.11010	.10740	.10481	.10231
54	.13694	.13336	.12992	.12662	.12345	.12041	.11748	.11467	.11196	.10936
55	.14547	.14176	.13820	.13478	.13149	.12832	.12528	.12235	.11953	.11682
56	.15437	.15054	.14685	.14330	.13989	.13661	.13345	.13040	.12747	.12464
57	.16365	.15969	.15588	.15221	.14868	.14527	.14199	.13883	.13578	.13284
58	.17330	.16921	.16528	.16149	.15783	.15431	.15091	.14763	.14447	.14141
59	.18335	.17914	.17508	.17117	.16739	.16375	.16023	.15684	.15356	.15039
60	.19385	.18952	.18534	.18131	.17741	.17365	.17001	.16650	.16311	.15982
61	.20480	.20035	.19605	.19189	.18788	.18400	.18025	.17662	.17311	.16971
62	.21615	.21158	.20717	.20290	.19877	.19477	.19090	.18716	.18354	.18003
63	.22791	.22323	.21870	.21431	.21007	.20596	.20198	.19812	.19439	.19077
64	.24009	.23530	.23066	.22616	.22181	.21758	.21349	.20953	.20568	.20195
65	.25271	.24781	.24306	.23846	.23400	.22967	.22547	.22139	.21744	.21360
66	.26600	.26100	.25615	.25145	.24688	.24245	.23814	.23396	.22990	.22596
67	.27992	.27483	.26989	.26509	.26043	.25590	.25150	.24722	.24306	.23901
68	.29443	.28926	.28423	.27934	.27459	.26997	.26548	.26110	.25685	.25271
69	.30950	.30424	.29914	.29417	.28934	.28463	.28005	.27559	.27125	.26703
70	.32508	.31976	.31459	.30955	.30464	.29986	.29520	.29067	.28625	.28194

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
71	.34122	.33585	.33062	.32552	.32054	.31570	.31097	.30637	.30187	.29749
72	.35790	.35249	.34721	.34205	.33703	.33213	.32734	.32268	.31812	.31367
73	.37505	.36960	.36428	.35909	.35403	.34908	.34425	.33953	.33492	.33042
74	.39258	.38711	.38177	.37655	.37145	.36647	.36160	.35684	.35219	.34764
75	.41039	.40491	.39956	.39432	.38921	.38420	.37931	.37452	.36983	.36525
76	.42843	.42296	.41760	.41236	.40724	.40222	.39731	.39250	.38779	.38318
77	.44668	.44122	.43588	.43065	.42552	.42050	.41559	.41077	.40605	.40143
78	.46510	.45967	.45435	.44914	.44403	.43902	.43411	.42930	.42458	.41995
79	.48365	.47826	.47298	.46780	.46271	.45773	.45284	.44804	.44333	.43871
80	.50226	.49693	.49169	.48655	.48150	.47655	.47169	.46692	.46224	.45763
81	.52090	.51562	.51044	.50536	.50036	.49546	.49064	.48590	.48125	.47668
82	.53951	.53431	.52920	.52418	.51924	.51439	.50963	.50494	.50033	.49580
83	.55802	.55291	.54788	.54294	.53808	.53329	.52859	.52396	.51941	.51493
84	.57640	.57139	.56645	.56159	.55681	.55210	.54747	.54291	.53843	.53401
85	.59459	.58968	.58484	.58008	.57539	.57077	.56623	.56175	.55733	.55298
86	.61254	.60774	.60302	.59836	.59377	.58925	.58479	.58040	.57607	.57180
87	.63019	.62551	.62090	.61635	.61187	.60745	.60309	.59880	.59456	.59038
88	.64751	.64296	.63847	.63405	.62968	.62537	.62112	.61693	.61279	.60871
89	.66444	.66003	.65567	.65137	.64712	.64293	.63880	.63471	.63068	.62670
90	.68094	.67667	.67244	.66827	.66415	.66009	.65607	.65210	.64818	.64431
91	.69699	.69285	.68877	.68473	.68074	.67680	.67291	.66906	.66526	.66150
92	.71254	.70855	.70460	.70071	.69685	.69304	.68928	.68555	.68187	.67823
93	.72753	.72369	.71989	.71613	.71242	.70874	.70510	.70150	.69794	.69442
94	.74200	.73830	.73464	.73103	.72745	.72390	.72040	.71693	.71350	.71010
95	.75591	.75236	.74885	.74538	.74194	.73853	.73516	.73182	.72851	.72524
96	.76920	.76580	.76243	.75909	.75579	.75252	.74928	.74607	.74289	.73974
97	.78188	.77863	.77540	.77220	.76904	.76590	.76279	.75971	.75665	.75363
98	.79399	.79088	.78779	.78473	.78170	.77869	.77571	.77276	.76983	.76693
99	.80555	.80257	.79962	.79670	.79380	.79092	.78807	.78525	.78244	.77966
100	.81641	.81357	.81075	.80796	.80518	.80243	.79971	.79700	.79432	.79165
101	.82683	.82412	.82144	.81877	.81612	.81350	.81089	.80831	.80574	.80320
102	.83652	.83394	.83137	.82882	.82630	.82379	.82130	.81883	.81637	.81394
103	.84624	.84379	.84135	.83892	.83652	.83413	.83176	.82941	.82707	.82475
104	.85519	.85285	.85053	.84822	.84593	.84365	.84139	.83915	.83692	.83470
105	.86400	.86178	.85957	.85737	.85519	.85302	.85087	.84873	.84660	.84449
106	.87523	.87316	.87110	.86905	.86702	.86500	.86299	.86099	.85900	.85703
107	.88806	.88617	.88429	.88242	.88055	.87870	.87686	.87502	.87320	.87139
108	.90958	.90802	.90646	.90490	.90336	.90182	.90028	.89876	.89724	.89573
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.00972	.00961	.00951	.00941	.00932	.00924	.00916	.00908	.00901	.00894
1	.00355	.00345	.00334	.00325	.00316	.00307	.00299	.00292	.00285	.00278
2	.00346	.00334	.00323	.00313	.00303	.00294	.00286	.00278	.00270	.00263
3	.00353	.00340	.00329	.00318	.00307	.00298	.00289	.00280	.00272	.00264
4	.00369	.00356	.00343	.00332	.00321	.00310	.00300	.00291	.00283	.00274
5	.00392	.00377	.00364	.00352	.00340	.00329	.00318	.00308	.00299	.00290
6	.00420	.00405	.00391	.00377	.00365	.00353	.00342	.00331	.00321	.00311
7	.00452	.00436	.00421	.00406	.00393	.00380	.00368	.00357	.00346	.00336
8	.00490	.00473	.00457	.00441	.00427	.00413	.00400	.00388	.00376	.00365
9	.00535	.00517	.00499	.00483	.00467	.00453	.00439	.00426	.00413	.00402
10	.00587	.00567	.00548	.00531	.00514	.00499	.00484	.00470	.00456	.00444
11	.00645	.00624	.00605	.00586	.00568	.00551	.00536	.00521	.00506	.00493
12	.00711	.00689	.00668	.00648	.00629	.00611	.00595	.00579	.00563	.00549
13	.00781	.00757	.00735	.00714	.00694	.00675	.00657	.00640	.00624	.00609
14	.00851	.00826	.00802	.00780	.00759	.00739	.00720	.00702	.00684	.00668
15	.00918	.00891	.00866	.00842	.00820	.00799	.00779	.00759	.00741	.00724
16	.00979	.00950	.00924	.00899	.00875	.00853	.00832	.00811	.00792	.00774
17	.01035	.01006	.00978	.00951	.00926	.00902	.00880	.00859	.00838	.00819
18	.01088	.01057	.01027	.00999	.00973	.00948	.00924	.00901	.00880	.00860
19	.01139	.01106	.01075	.01045	.01017	.00990	.00965	.00942	.00919	.00898
20	.01192	.01157	.01124	.01092	.01063	.01035	.01008	.00983	.00959	.00936
21	.01245	.01208	.01173	.01139	.01108	.01078	.01050	.01023	.00998	.00974
22	.01300	.01260	.01222	.01187	.01154	.01122	.01092	.01064	.01037	.01011
23	.01357	.01315	.01275	.01238	.01202	.01168	.01137	.01106	.01078	.01051
24	.01422	.01377	.01334	.01294	.01257	.01221	.01187	.01155	.01124	.01095
25	.01496	.01448	.01403	.01361	.01320	.01282	.01246	.01212	.01180	.01149
26	.01582	.01531	.01483	.01438	.01395	.01354	.01316	.01279	.01244	.01211
27	.01680	.01626	.01575	.01527	.01481	.01437	.01396	.01357	.01320	.01285
28	.01791	.01734	.01679	.01628	.01579	.01533	.01489	.01447	.01408	.01370
29	.01914	.01853	.01795	.01740	.01688	.01639	.01592	.01548	.01505	.01465
30	.02048	.01982	.01921	.01862	.01807	.01754	.01704	.01657	.01612	.01569
31	.02193	.02124	.02058	.01996	.01937	.01881	.01828	.01777	.01729	.01683
32	.02351	.02278	.02208	.02142	.02079	.02019	.01962	.01908	.01857	.01808
33	.02523	.02445	.02371	.02300	.02234	.02170	.02109	.02052	.01997	.01944
34	.02707	.02624	.02545	.02470	.02399	.02331	.02267	.02205	.02146	.02091

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
35	.02905	.02817	.02733	.02653	.02577	.02505	.02436	.02371	.02308	.02249
36	.03117	.03024	.02935	.02850	.02769	.02693	.02619	.02550	.02483	.02419
37	.03345	.03246	.03151	.03061	.02976	.02894	.02816	.02742	.02671	.02603
38	.03590	.03485	.03385	.03289	.03198	.03112	.03029	.02950	.02874	.02802
39	.03852	.03740	.03634	.03533	.03436	.03344	.03256	.03172	.03092	.03015
40	.04131	.04013	.03900	.03793	.03690	.03593	.03499	.03410	.03324	.03242
41	.04428	.04303	.04184	.04070	.03962	.03858	.03759	.03664	.03573	.03486
42	.04744	.04612	.04486	.04366	.04250	.04140	.04035	.03934	.03838	.03745
43	.05083	.04943	.04810	.04683	.04561	.04444	.04333	.04226	.04123	.04025
44	.05443	.05296	.05155	.05021	.04892	.04768	.04650	.04537	.04428	.04324
45	.05827	.05672	.05523	.05381	.05245	.05114	.04989	.04869	.04754	.04643
46	.06237	.06074	.05917	.05767	.05623	.05485	.05352	.05225	.05103	.04986
47	.06673	.06500	.06335	.06177	.06025	.05879	.05739	.05605	.05475	.05351
48	.07137	.06955	.06781	.06614	.06454	.06300	.06152	.06010	.05874	.05742
49	.07632	.07441	.07258	.07082	.06913	.06750	.06595	.06444	.06300	.06161
50	.08162	.07962	.07769	.07584	.07407	.07236	.07071	.06913	.06760	.06614
51	.08731	.08520	.08318	.08124	.07937	.07757	.07583	.07416	.07256	.07101
52	.09340	.09119	.08907	.08703	.08507	.08317	.08135	.07959	.07790	.07627
53	.09991	.09760	.09538	.09324	.09118	.08919	.08728	.08543	.08365	.08193
54	.10685	.10443	.10211	.09987	.09771	.09562	.09361	.09167	.08980	.08799
55	.11420	.11168	.10925	.10690	.10464	.10246	.10035	.09832	.09635	.09445
56	.12191	.11928	.11675	.11430	.11193	.10965	.10745	.10531	.10325	.10126
57	.13001	.12727	.12462	.12207	.11960	.11721	.11491	.11268	.11052	.10843
58	.13846	.13561	.13286	.13020	.12762	.12513	.12273	.12040	.11814	.11595
59	.14732	.14436	.14150	.13873	.13605	.13346	.13095	.12851	.12616	.12388
60	.15665	.15358	.15060	.14772	.14494	.14224	.13962	.13709	.13463	.13225
61	.16642	.16324	.16016	.15717	.15428	.15147	.14875	.14611	.14355	.14107
62	.17663	.17333	.17014	.16704	.16404	.16113	.15830	.15556	.15290	.15031
63	.18726	.18385	.18055	.17734	.17423	.17121	.16828	.16544	.16267	.15999
64	.19833	.19481	.19140	.18809	.18487	.18175	.17871	.17576	.17289	.17010
65	.20987	.20624	.20273	.19931	.19598	.19275	.18961	.18656	.18358	.18069
66	.22213	.21840	.21478	.21125	.20783	.20449	.20125	.19809	.19501	.19202
67	.23508	.23125	.22753	.22390	.22037	.21694	.21360	.21034	.20716	.20407
68	.24868	.24476	.24094	.23722	.23359	.23006	.22662	.22327	.22000	.21681
69	.26291	.25889	.25498	.25117	.24745	.24383	.24030	.23685	.23349	.23020
70	.27773	.27364	.26964	.26574	.26194	.25823	.25461	.25107	.24762	.24425

Table S
Based on Life Table 2000CM
Single Life Remainder Factors
Applicable on or After May 1, 2009

	Interest Rate									
AGE	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
71	.29321	.28904	.28496	.28099	.27710	.27331	.26961	.26599	.26246	.25900
72	.30933	.30508	.30094	.29689	.29294	.28907	.28530	.28160	.27799	.27446
73	.32602	.32171	.31751	.31340	.30938	.30545	.30160	.29784	.29416	.29056
74	.34319	.33884	.33458	.33042	.32634	.32236	.31845	.31463	.31089	.30723
75	.36076	.35637	.35207	.34786	.34374	.33970	.33575	.33188	.32808	.32437
76	.37867	.37425	.36991	.36567	.36151	.35744	.35344	.34953	.34569	.34192
77	.39690	.39245	.38810	.38383	.37964	.37554	.37151	.36756	.36369	.35989
78	.41541	.41096	.40659	.40231	.39811	.39398	.38993	.38596	.38206	.37823
79	.43418	.42973	.42536	.42107	.41686	.41272	.40866	.40467	.40075	.39691
80	.45311	.44868	.44432	.44003	.43582	.43169	.42763	.42363	.41971	.41585
81	.47219	.46777	.46343	.45916	.45497	.45084	.44679	.44280	.43888	.43502
82	.49135	.48696	.48265	.47841	.47424	.47014	.46610	.46213	.45822	.45437
83	.51052	.50618	.50191	.49771	.49357	.48950	.48549	.48154	.47766	.47383
84	.52966	.52537	.52115	.51700	.51291	.50887	.50490	.50099	.49714	.49334
85	.54870	.54448	.54032	.53622	.53218	.52820	.52428	.52041	.51660	.51284
86	.56759	.56344	.55935	.55532	.55135	.54742	.54356	.53974	.53598	.53227
87	.58626	.58219	.57818	.57422	.57031	.56646	.56266	.55891	.55521	.55155
88	.60468	.60070	.59677	.59290	.58907	.58529	.58157	.57788	.57425	.57066
89	.62277	.61888	.61505	.61126	.60753	.60383	.60018	.59658	.59302	.58950
90	.64048	.63670	.63296	.62927	.62563	.62202	.61846	.61494	.61146	.60803
91	.65778	.65411	.65048	.64689	.64334	.63983	.63636	.63293	.62954	.62619
92	.67462	.67106	.66754	.66406	.66061	.65720	.65383	.65050	.64720	.64393
93	.69094	.68749	.68408	.68071	.67737	.67406	.67079	.66756	.66435	.66118
94	.70673	.70340	.70011	.69685	.69362	.69042	.68725	.68412	.68102	.67794
95	.72199	.71878	.71560	.71246	.70934	.70625	.70319	.70016	.69716	.69419
96	.73662	.73353	.73047	.72743	.72443	.72145	.71850	.71557	.71268	.70981
97	.75063	.74766	.74471	.74180	.73890	.73604	.73319	.73038	.72758	.72482
98	.76405	.76120	.75837	.75557	.75279	.75003	.74730	.74459	.74190	.73923
99	.77690	.77417	.77146	.76877	.76610	.76345	.76083	.75822	.75564	.75308
100	.78901	.78639	.78379	.78121	.77866	.77612	.77360	.77110	.76862	.76616
101	.80067	.79816	.79568	.79321	.79076	.78832	.78591	.78351	.78114	.77877
102	.81152	.80912	.80674	.80438	.80203	.79970	.79738	.79508	.79280	.79054
103	.82245	.82016	.81789	.81563	.81339	.81116	.80895	.80676	.80458	.80241
104	.83250	.83031	.82814	.82599	.82384	.82171	.81960	.81750	.81541	.81334
105	.84239	.84030	.83823	.83617	.83412	.83209	.83006	.82806	.82606	.82407
106	.85507	.85311	.85117	.84924	.84733	.84542	.84352	.84164	.83976	.83790
107	.86958	.86779	.86600	.86422	.86246	.86070	.85895	.85721	.85548	.85376
108	.89422	.89272	.89123	.88974	.88826	.88679	.88533	.88386	.88241	.88096
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

Table 2000CM

Age X	l_x	Age X	l_x	Age x	l_x
0	100000	37	96921	74	66882
1	99305	38	96767	75	64561
2	99255	39	96600	76	62091
3	99222	40	96419	77	59476
4	99197	41	96223	78	56721
5	99176	42	96010	79	53833
6	99158	43	95782	80	50819
7	99140	44	95535	81	47694
8	99124	45	95268	82	44475
9	99110	46	94981	83	41181
10	99097	47	94670	84	37837
11	99085	48	94335	85	34471
12	99073	49	93975	86	31114
13	99057	50	93591	87	27799
14	99033	51	93180	88	24564
15	98998	52	92741	89	21443
16	98950	53	92270	90	18472
17	98891	54	91762	91	15685
18	98822	55	91211	92	13111
19	98745	56	90607	93	10773
20	98664	57	89947	94	8690
21	98577	58	89225	95	6871
22	98485	59	88441	96	5315
23	98390	60	87595	97	4016
24	98295	61	86681	98	2959
25	98202	62	85691	99	2122
26	98111	63	84620	100	1477
27	98022	64	83465	101	997
28	97934	65	82224	102	650
29	97844	66	80916	103	410
30	97750	67	79530	104	248
31	97652	68	78054	105	144
32	97549	69	76478	106	81
33	97441	70	74794	107	43
34	97324	71	73001	108	22
35	97199	72	71092	109	11
36	97065	73	69056	110	0

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(e) *Effective/applicability date.* This section applies on or after May 1, 2009.

(f) *Expiration date.* This section expires on or before May 1, 2012.

■ **Par. 19.** The undesignated center heading immediately preceding § 20.2031–7A is revised to read as follows:

Actuarial Tables Applicable Before May 1, 2009

■ **Par. 20.** Section 20.2031–7A is amended by:

■ 1. Revising the section heading.

■ 2. Adding paragraphs (f)(1), (f)(2), and (f)(3).

■ 3. In newly-designated paragraph (f)(4), the heading and introductory text paragraph is revised.

■ 4. The heading of Table S in newly-designated paragraph (f)(4) is revised.

■ 5. The heading of Table 90CM in newly-designated paragraph (f)(4) is revised.

■ 6. Paragraph (f)(5) is added.

The revisions and additions read as follows:

§ 20.2031–7A Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before May 1, 2009.

* * * * *

(f) *Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is after April 30,1999, and before May 1, 2009*—(1) *In general.* Except as otherwise provided in § 20.2031–7(b) and § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date for the gross estate of the decedent is after April 30, 1999, and before May 1, 2009, the fair market value of annuities, life estates, terms of years, remainders, and reversionary interests is the present value of the interests determined by use of standard or special section 7520 actuarial factors and the valuation methodology described in § 20.2031–7T(d). These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 20.7520–1 through 20.7520–4. See paragraph (f)(4) of this section for determination of the appropriate table for use in valuing these interests.

(2) *Transitional rule.* (i) If a decedent dies after April 30, 1999, and if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the decedent's property could not be changed, and the decedent dies without having regained competency to dispose of the decedent's property or dies within 90 days of the date on which the decedent first regains competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the gross estate of the decedent is their present value determined either under this section or under the corresponding section applicable at the time the decedent became mentally incompetent, at the option of the decedent's executor. For example, see paragraph (d) of this section.

(ii) If a decedent dies after April 30, 1999, and before July 1, 1999, the fair market value of annuities, life estates, remainders, and reversions based on one or more measuring lives included in the gross estate of the decedent is their present value determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 20.7520–1(b) and 20.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(4) or paragraph (f)(4) of this section, at the option of the decedent's executor.

(iii) For purposes of paragraphs (f)(2)(i) and (f)(2)(ii) of this section, where the decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(4) or paragraph (f)(4) of this section, the decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in paragraph (f)(4) of this section or in § 20.2031–7(d)(6) are included in Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (7–99). Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. Publication 1457 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office. However, pertinent factors in this publication may be obtained from: CC:PA:LPD:PR (IRS Publication 1457), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. If a special factor is required in the case of an actual decedent, the Internal Revenue Service may furnish the factor to the executor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent's death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*)) and include payment of the required user fee.

(4) *Actuarial tables.* Except as provided in § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), Life Table 90CM and Table S (Single life remainder factors applicable where the valuation date is after April 30, 1999, and before May 1, 2009), contained in this paragraph (f)(4), and Table B, Table J, and Table K set forth in § 20.2031–7(d)(6) must be used in the application of the provisions of this section when the section 7520 interest rate component is between 4.2 and 14 percent. Table S and Table 90CM are as follows:

Table S.—Based on Life on Life Table 90CM Single Life Remainder Factors

[Applicable After April 30, 1999, and Before May 1, 2009]

* * * * *

Table 90 CM.—Applicable After April 30, 1999, and Before May 1, 2009

* * * * *

(5) *Effective/applicability dates.* Paragraphs (f)(1) through (f)(4) apply after April 30, 1999, and before May 1, 2009.

§ 20.2032–1 Alternate valuation.

* * * * *

(f) * * *

(1) [Reserved]. For further guidance, see § 20.2032–1T(f)(1).

* * * * *

■ **Par. 22.** Section 20.2032–1T is added to read as follows:

§ 20.2032–1T Alternate valuation (temporary).

(a) through (e) [Reserved]. For further guidance, see § 20.2032–1(a) through (e).

(f) [Reserved]. For further guidance, see § 20.2032–1(f).

(1) *Life estates, remainders, and similar interests.* The values of life estates, remainders, and similar interests are to be obtained by applying the methods prescribed in § 20.2031–7, using (i) the age of each person, the duration of whose life may affect the value of the interest, as of the date of the

decedent's death, and (ii) the value of the property as of the alternate valuation date. For example, assume that the decedent, or the decedent's estate, was entitled to receive certain property worth $50,000 upon the death of A, who was entitled to the income for life. At the time of the decedent's death, on or after May 1, 2009, A was 47 years and 5 months old. In the month in which the decedent died, the section 7520 rate was 6.2 percent. The value of the decedent's remainder interest at the date of the decedent's death would, as illustrated in *Example 1* of § 20.2031–7T(d)(5), be $9,336.00 ($50,000 × .18672). If, because of economic conditions, the property declined in value and was worth only $40,000 on the date that was 6 months after the date of the decedent's death, the value of the remainder interest would be $7,468.80 ($40,000 × .18672), even though A would be 48 years old on the alternate valuation date.

(f)(2) through (g) [Reserved]. For further guidance, see § 20.2032–1(f)(2) through (g).

(h) *Effective/applicability date.* Paragraph (f)(1) applies on or after May 1, 2009.

(i) *Expiration date.* Paragraph (f)(1) expires on or before May 1, 2012.

■ **Par. 23.** Section 20.2055–2 is amended by revising the heading in paragraph (e)(3) and revising paragraphs (e)(3)(iii) and (f)(4) to read as follows:

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(e) * * *

(3) *Effective/applicability date.* * * *

(iii) [Reserved]. For further guidance, see § 20.2055–2T(e)(3)(iii).

* * * * *

(f) * * *

(4) [Reserved]. For further guidance, see § 20.2055–2T(f)(4).

* * * * *

■ **Par. 24.** Section 20.2055–2T is added to read as follows:

§ 20.2055–2T Transfers not exclusively for charitable purposes (temporary).

(a) through (e)(3)(ii). [Reserved]. For further guidance see § 20.2055–2(a) through (e)(3)(ii).

(e)(3)(iii) The rule in paragraphs (e)(2)(vi)(a) and (e)(2)(vii)(a) of this section that guaranteed annuity interests or unitrust interests, respectively, may be payable for a specified term of years or for the life or lives of only certain individuals is generally effective in the case of transfers pursuant to wills and revocable trusts when the decedent dies on or after April 4, 2000. Two exceptions from the application of this rule in paragraphs (e)(2)(vi)(a) and (e)(2)(vii)(a) of this section are provided in the case of transfers pursuant to a will or revocable trust executed on or before April 4, 2000. One exception is for a decedent who dies on or before July 5, 2001, without having republished the will (or amended the trust) by codicil or otherwise. The other exception is for a decedent who was on April 4, 2000, under a mental disability that prevented a change in the disposition of the decedent's property, and who either does not regain competence to dispose of such property before the date of death, or dies prior to the later of 90 days after the date on which the decedent first regains competence, or July 5, 2001, without having republished the will (or amended the trust) by codicil or otherwise. If a guaranteed annuity interest or unitrust interest created pursuant to a will or revocable trust when the decedent dies on or after April 4, 2000, uses an individual other than one permitted in paragraphs (e)(2)(vi)(a) and (vii)(a) of this section, and the interest does not qualify for this transitional relief, the interest may be reformed into a lead interest payable for a specified term of years. The term of years is determined by taking the factor for valuing the annuity or unitrust interest for the named individual measuring life and identifying the term of years (rounded up to the next whole year) that corresponds to the equivalent term of years factor for an annuity or unitrust interest. For example, in the case of an annuity interest payable for the life of an individual age 40 at the time of the transfer on or after May 1, 2009, assuming an interest rate of 7.4 percent under section 7520, the annuity factor from column 1 of Table S(7.4), contained in IRS Publication 1457, Actuarial Valuations Version 3A, for the life of an individual age 40 is 12.1519 (1.00000 minus .10076, divided by .074). Based on Table B(7.4), contained in Publication 1457, Actuarial Valuations Version 3A, the factor 12.1519 corresponds to a term of years between 32 and 33 years. Accordingly, the annuity interest must be reformed into an interest payable for a term of 33 years. A judicial reformation must be commenced prior to the later of July 5, 2001, or the date prescribed by section 2055(e)(3)(C)(iii). Any judicial reformation must be completed within a reasonable time after it is commenced. A non-judicial reformation is permitted if effective under state law, provided it is completed by the date on which a judicial reformation must be commenced. In the alternative, if a court, in a proceeding that is commenced on or before July 5, 2001, declares any transfer made pursuant to a will or revocable trust where the decedent dies on or after April 4, 2000, and on or before March 6, 2001, null and void ab initio, the Internal Revenue Service will treat such transfers in a manner similar to that described in section 2055(e)(3)(J).

(e)(4) through (f)(3). [Reserved]. For further guidance see § 20.2055–2(e)(4) through (f)(3).

(f)(4) *Other decedents.* The present value of an interest not described in paragraph (f)(2) of this section is to be determined under § 20.2031–7T(d) in the case of decedents where the valuation date of the gross estate is on or after May 1, 2009, or under § 20.2031–7A in the case of decedents where the valuation date of the gross estate is before May 1, 2009.

(f)(5) [Reserved]. For further guidance see § 20.2055–2(f)(5).

(f)(6) *Effective/applicability date.* Paragraphs (e)(3)(iii) and (f)(4) apply on or after May 1, 2009.

(f)(7) *Expiration date.* Paragraphs (e)(3)(iii) and (f)(4) expire on or before May 1, 2012.

■ **Par. 25.** Section 20.2056A–4 is amended by revising paragraph (c)(4)(ii)(B) and *Example 4* of paragraph (d).

The revisions reads as follows:

§ 20.2056A–4 Procedures for conforming marital trusts and nontrust marital transfers to the requirements of a qualified domestic trust.

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(B) [Reserved]. For further guidance, see § 20.2056A–4T(c)(4)(ii)(B).

(d) * * *

Example 4. [Reserved]. For further guidance, see § 20.2056A–4T(d) *Example 4.*

* * * * *

■ **Par. 26.** Section 20.2056A–4T is added to read as follows:

§ 20.2056A–4T Procedures for conforming marital trusts and nontrust marital transfers to the requirements of a qualified domestic trust (temporary).

(a) through (c)(4)(ii)(A). [Reserved]. For further guidance see § 20.2056A–4(a) through (c)(4)(ii)(A).

(c)(4)(ii)(B) The total present value of the annuity or other payment is the present value of the nonassignable annuity or other payment as of the date of the decedent's death, determined in accordance with the interest rates and mortality data prescribed by section 7520. The expected annuity term is the

number of years that would be required for the scheduled payments to exhaust a hypothetical fund equal to the present value of the scheduled payments. This is determined by first dividing the total present value of the payments by the annual payment. From the quotient so obtained, the expected annuity term is derived by identifying the term of years that corresponds to the annuity factor equal to the quotient. This is determined by using column 1 of Table B, for the applicable interest rate, contained in Publication 1457, Actuarial Valuations Version 3A. A copy of this publication is available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov.* If the quotient obtained falls between two terms, the longer term is used.

(c)(5) through (c)(7). [Reserved]. For further guidance see § 20.2056A–4(c)(5) through (c)(7).

(d) *Examples 1* through *3.* [Reserved]. For further guidance see § 20.2056A–4(d) *Examples 1* through *3.*

Example 4. Computation of corpus portion of annuity payment. (i) At the time of D's death on or after May 1, 2009, D is a participant in an employees' pension plan described in section 401(a). On D's death, D's spouse S, a resident of the United States, becomes entitled to receive a survivor's annuity of $72,000 per year, payable monthly, for life. At the time of D's death, S is age 60. Assume that under section 7520, the appropriate discount rate to be used for valuing annuities in the case of this decedent is 6.0 percent. The annuity factor at 6.0 percent for a person age 60 is 11.0625 (1.0000 minus .33625, divided by .06). The adjustment factor at 6.0 percent in Table K for monthly payments is 1.0272. Accordingly, the right to receive $72,000 per year on a monthly basis is equal to the right to receive $73,958.40 ($72,000 × 1.0272) on an annual basis.

(ii) The corpus portion of each annuity payment received by S is determined as follows. The first step is to determine the annuity factor for the number of years that would be required to exhaust a hypothetical fund that has a present value and a payout corresponding to S's interest in the payments under the plan, determined as follows:

(A) Present value of S's annuity: $73,958.40 × 11.0625 = $818,164.80.

(B) Annuity Factor for Expected Annuity Term: $818,164.80/$73,958.40 = 11.0625

(iii) The second step is to determine the number of years that would be required for S 's annuity to exhaust a hypothetical fund of $818,164.80. The term certain annuity factor of 11.0625 falls between the annuity factors for 18 and 19 years in a 6.0 percent term certain annuity table (Column 1 of Table B, Publication 1457 Actuarial Valuations Version 3A, which may be obtained on the IRS Internet site). Accordingly, the expected annuity term is 19 years.

(iv) The third step is to determine the corpus amount by dividing the expected term of 19 years into the present value of the hypothetical fund as follows:

Corpus amount of annual payment: $818,164.80/19 = $43,061.31

(v) In the fourth step, the corpus portion of each annuity payment is determined by dividing the corpus amount of each annual payment by the annual annuity payment (adjusted for payments more frequently than annually as in (i) of this *Example 4*) as follows:

Corpus portion of each annuity payment: $43,061.31/$73,958.40 = .58

(vi) Accordingly, 58 percent of each payment to S is deemed to be a distribution of corpus. A marital deduction is allowed for $818,164.80, the present value of the annuity as of D's date of death, if either: S agrees to roll over the corpus portion of each payment to a QDOT and the executor files the Information Statement described in paragraph (c)(5) of this section and the Roll Over Agreement described in paragraph (c)(7) of this section; or S agrees to pay the tax due on the corpus portion of each payment and the executor files the Information Statement described in paragraph (c)(5) of this section and the Payment Agreement described in paragraph (c)(6) of this section.

Example 5. [Reserved]. For further guidance see § 20.2056A–4(d) *Example 5.*

(e) *Effective/applicability date.* Paragraph (c)(4)(ii)(B) and *Example 4* in paragraph (d) of this section are applicable with respect to decedents dying on or after May 1, 2009.

(f) *Expiration date.* Paragraph (c)(4)(ii)(B) and *Example 4* in paragraph (d) of this section expire on or before May 1, 2012.

■ **Par. 27.** Section 20.7520–1 is amended by:

■ 1. Revising the section heading.

■ 2. Revising the second sentence of paragraph (a)(1) and revising paragraph (a)(2).

■ 3. Removing the last two sentences of paragraph (b)(2) and adding a new sentence at the end of the paragraph.

■ 4. Revising paragraphs (c)(1), (c)(2), and (d).

The revisions and additions read as follows:

§ 20.7520–1 Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests prior to May 1, 2009.

* * * * *

(a) * * *(1) * * * For periods prior to May 1, 2009, see § 20.2031–7A for the computation of the value of annuities, unitrust interests, life estates, terms for years, remainders, and reversions, other than interests described in paragraphs (a)(2) and (a)(3) of this section.

(2) For a transfer to a pooled income fund prior to May 1, 2009, see § 1.642(c)–6A (Income Tax Regulations) with respect to the valuation of the remainder interest.

* * * * *

(b) * * *

(2) * * * For decedents' estates with valuation dates after April 30, 1989, and before May 1, 2009, the mortality component tables are contained in § 20.2031–7A.

(c) * * *

(1) [Reserved]. For further guidance, see § 20.7520–1T(c)(1).

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 22 percent for valuation dates after April 30, 1999, and before May 1, 2009.* The following publications are no longer available for purchase from the Superintendent of Documents, United States Government Printing Office; however, they may be obtained from CC:PA:LPD:PR, Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044:

* * * * *

(d) *Effective/applicability dates.* This section applies after April 30, 1989, and before May 1, 2009.

■ **Par. 28.** Section 20.7520–1T is added to read as follows:

§ 20.7520–1T Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests on or after May 1, 2009 (temporary).

(a) *General actuarial valuations.* (1) Except as otherwise provided in this section and in § 20.7520–3 (relating to exceptions to the use of prescribed tables under certain circumstances), in the case of estates of decedents with valuation dates after April 30, 1989, the fair market value of annuities, interests for life or for a term of years (including unitrust interests), remainders, and reversions is their present value determined under this section. See § 20.2031–7T(d) (and, for certain prior periods, § 20.2031–7A) for the computation of the value of annuities, unitrust interests, life estates, terms for years, remainders, and reversions, other than interests described in paragraphs (a)(2) and (a)(3) of this section.

(2) In the case of a transfer to a pooled income fund with a valuation date on or after May 1, 2009, see § 1.642(c)–6T(e), Income Tax Regulations, (or, for certain prior periods, § 1.642(c)–6A) with respect to the valuation of the remainder interest.

(3) [Reserved]. For further guidance, see § 20.7520–1(a)(3).

(b)(1) [Reserved]. For further guidance, see § 20.7520–1(b)(1).

(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the revised mortality component tables will be published in the regulations at that time. For decedent's estates with valuation dates on or after May 1, 2009, the mortality component table (Table 2000CM) is contained in § 20.2031–7T(d)(7). See § 20.2031–7A for mortality component tables applicable to decedent's estates with valuation dates before May 1, 2009.

(c) [Reserved]. For further guidance, see § 20.7520–1(c).

(1) *Regulation sections containing tables with interest rates between 0.2 and 14 percent for valuation dates on or after* May 1, 2009. Section 1.642(c)–6T(e)(6) contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5. See § 1.642(c)–6A for single life remainder factors applicable to valuation dates before May 1, 2009. Section 1.664–4(e)(6) contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section1.664–4T(e)(7) contains Table U(1) (unitrust single life remainder factors). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3. See § 1.664–4A for unitrust single life remainder factors applicable to valuation dates before May 1, 2009. Section 20.2031–7(d)(6) contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), and Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7T(d)(7) contains Table S (single life remainder factors), and Table 2000CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A for single life remainder factors applicable to valuation dates before May 1, 2009.

(2) *Internal Revenue Service publications containing tables with interest rates between 0.2 and 22 percent for valuation dates on or after* May 1, 2009. The following documents are available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov*:

(i) Internal Revenue Service Publication 1457, ''Actuarial Valuations Version 3A'' (2009). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 and a pooled income fund as defined in § 1.642(c)–5.

(ii) Internal Revenue Service Publication 1458, ''Actuarial Valuations Version 3B'' (2009). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3.

(iii) Internal Revenue Service Publication 1459, ''Actuarial Valuations Version 3C'' (2009). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12T.

(d) *Effective/applicability date.* This section applies on or after May 1, 2009.

(e) *Expiration date.* This section expires on or before May 1, 2012.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

■ **Par. 29.** The authority citation for part 25 is amended by adding entries in numerical order to read in part as follows:

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

Section 25.2512–5T also issued under 26 U.S.C. 7520(c)(2).

Section 25.7520–1T also issued under 26 U.S.C. 7520(c)(2). * * *

■ **Par. 30.** Section 25.2512–0 is revised to read as follows:

§ 25.2512–0 Table of contents.

This section lists the section headings that appear in the regulations under section 2512.

§ 25.2512–1 Valuation of property; in general.
§ 25.2512–2 Stocks and bonds.
§ 25.2512–3 Valuation of interests in businesses.
§ 25.2512–4 Valuation of notes.
§ 25.2512–5 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.
§ 25.2512–5T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).
§ 25.2512–6 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.
§ 25.2512–7 Effect of excise tax.
§ 25.2512–8 Transfers for insufficient consideration.

Actuarial Tables Applicable Before May 1, 2009

§ 25.2512–5A Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred before May 1, 2009.

■ **Par. 31.** Section 25.2512–5 is amended by revising paragraphs (c), (d), and (e) to read as follows:

The revised provisions read as follows:

§ 25.2512–5 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) and (d) [Reserved]. For further guidance, see § 25.2512–5T(c) and (d).

(e) *Effective/applicability dates.* This section applies after April 30, 1999, and before May 1, 2009.

■ **Par. 32.** Section 25.2512–5T is added to read as follows:

§ 25.2512–5T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).

(a) and (b) [Reserved]. For further guidance, see § 25.2512–5(a) and (b).

(c) *Actuarial valuations.* The present value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift on or after May 1, 2009, is determined under paragraph (d) of this section. The present value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift before May 1, 2009, is determined under the following sections:

Transfers		Applicable regulations
After	Before	
	01–01–52	25.2512–5A(a).
12–31–51	01–01–71	25.2512–5A(b).

Transfers		Applicable regulations
After	Before	
12–31–70	12–01–83	25.2512–5A(c).
11–30–83	05–01–89	25.2512–5A(d).
04–30–89	05–01–99	25.2512–5A(e).
04–30–99	05–01–09	25.2512–5A(f).

(d) *Actuarial valuations on or after May 1, 2009*—(1) *In general.* Except as otherwise provided in paragraph (b) of this section and § 25.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances), if the valuation date for the gift is on or after May 1, 2009, the fair market value of annuities, life estates, terms of years, remainders, and reversions transferred on or after May 1, 2009, is the present value of such interests determined under paragraph (d)(2) of this section and by use of standard or special section 7520 actuarial factors. These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 25.7520–1 through 25.7520–4. The fair market value of a qualified annuity interest described in section 2702(b)(1) and a qualified unitrust interest described in section 2702(b)(2) is the present value of such interests determined under § 25.7520–1(c).

(2) *Specific interests.* When the donor transfers property in trust or otherwise and retains an interest therein, generally, the value of the gift is the value of the property transferred less the value of the donor's retained interest. However, if the donor transfers property after October 8, 1990, to or for the benefit of a member of the donor's family, the value of the gift is the value of the property transferred less the value of the donor's retained interest as determined under section 2702. If the donor assigns or relinquishes an annuity, life estate, remainder, or reversion that the donor holds by virtue of a transfer previously made by the donor or another, the value of the gift is the value of the interest transferred. However, see section 2519 for a special rule in the case of the assignment of an income interest by a person who received the interest from a spouse.

(i) *Charitable remainder trusts.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5, is its value determined under § 1.642(c)–6T(e) (see § 1.642(c)–6A for certain prior periods). The fair market value of a remainder interest in a charitable remainder annuity trust, as described in § 1.664–2(a), is its present value determined under § 1.664–2(c). The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3, is its present value determined under § 1.664–4T(e). The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of transfer less the fair market value of the remainder interest, determined under § 1.664–4T(e)(4) and (5).

(ii) *Ordinary remainder and reversionary interests.* If the interest to be valued is to take effect after a definite number of years or after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder interest actuarial factor (that corresponds to the applicable section 7520 interest rate and remainder interest period) in Table B (for a term certain) or the appropriate Table S (for one measuring life), as the case may be. Table B is contained in § 20.2031–7(d)(6) and Table S (for one measuring life when the valuation date is on or after May 1, 2009) is included in § 20.2031–7T(d)(7) and Internal Revenue Service Publication 1457. See § 20.2031–7A containing Table S for valuation of interests before May 1, 2009. For information about obtaining actuarial factors for other types of remainder interests, see paragraph (d)(4) of this section.

(iii) *Ordinary term-of-years and life interests.* If the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable section 7520 interest rate and term-of-years or life interest period). Internal Revenue Service Publication 1457 includes actuarial factors for a remainder interest after a term of years in Table B and after the life of one individual in Table S (for one measuring life when the valuation date is on or after May 1, 2009). However, term-of-years and life interest actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in § 20.2031–7T(d)(7) (or in § 20.2031–7A). If Internal Revenue Service Publication 1457 (or any other reliable source of term-of-years and life interest actuarial factors) is not conveniently available, an actuarial factor for the interest may be derived mathematically. This actuarial factor may be derived by subtracting the correlative remainder factor (that corresponds to the applicable section 7520 interest rate) in Table B (for a term of years) in § 20.2031–7(d)(6) or in Table S (for the life of one individual) in § 20.2031–7T(d)(7), as the case may be, from 1.000000. For information about obtaining actuarial factors for other types of term-of-years and life interests, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount payable annually by the appropriate annuity actuarial factor (that corresponds to the applicable section 7520 interest rate and annuity period). Internal Revenue Service Publication 1457 includes actuarial factors in Table B (for a remainder interest after an annuity payable for a term of years) and in Table S (for a remainder interest after an annuity payable for the life of one individual when the valuation date is on or after May 1, 2009). However, annuity actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in § 20.2031–7T(d)(7) (or in § 20.2031–7A). If Internal Revenue Service Publication 1457 (or any other reliable source of annuity actuarial factors) is not conveniently available, an annuity factor for a term of years or for one life may be derived mathematically. This annuity factor may be derived by subtracting the applicable remainder factor (that corresponds to the applicable section 7520 interest rate and annuity period) in Table B (in the case of a term-of-years annuity) in § 20.2031–7(d)(6) or in Table S (in the case of a one-life annuity) in § 20.2031–7T(d)(7), as the case may be, from 1.000000 and then dividing the result by the applicable section 7520 interest rate expressed as a decimal number. See § 20.2031–7T(d)(2)(iv) for an example

that illustrates the computation of the present value of an annuity.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor set forth in Table K in § 20.2031–7(d)(6) at the appropriate interest rate component for payments made at the end of the specified periods. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the following example:

Example. In July of a year after 2008, the donor agreed to pay the annuitant the sum of $10,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each December 31st and June 30th. The annuity is payable until the annuitant's death. On the date of the agreement, the annuitant is 68 years and 5 months old. The donee annuitant's age is treated as 68 for purposes of computing the present value of the annuity. The section 7520 rate on the date of the agreement is 6.6 percent. Under Table S in § 20.2031–7T(d)(7), the factor at 6.6 percent for determining the present value of a remainder interest payable at the death of an individual aged 68 is .42001. Converting the remainder factor to an annuity factor, as described above, the annuity factor for determining the present value of an annuity transferred to an individual age 68 is 8.7877 (1.00000 minus .42001 divided by .066). The adjustment factor from Table K in § 20.2031–7(d)(6) in the column for payments made at the end of each semiannual period at the rate of 6.6 percent is 1.0162. The aggregate annual amount of the annuity, $10,000, is multiplied by the factor 8.7877 and the product is multiplied by 1.0162. The present value of the donee's annuity is, therefore, $89,300.61 ($10,000 × 8.7877 × 1.0162).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained is then multiplied by the adjustment factor in Table J in § 20.2031–7(d)(6) at the appropriate interest rate component for payments made at the beginning of specified periods. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment and the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraph (d)(2)(iv)(B) of this section.

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual*—(A) *Annuity interests.* The present value of an annuity interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with values from the tables in §§ 20.2031–7(d)(6) and 20.2031–7T(d)(7) as described in the following example:

Example. The donor transfers $100,000 into a trust on or after May 1, 2009, and retains the right to receive an annuity from the trust in the amount of $6,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each June 30th and December 31st. The annuity is payable for 10 years or until the donor's prior death. At the time of the transfer, the donor is 59 years and 6 months old. The donor's age is deemed to be 60 for purposes of computing the present value of the retained annuity. The section 7520 rate for the month in which the transfer occurred is 5.8 percent. The present value of the donor's retained interest is $42,575.65, determined as follows

TABLE S value at 5.8 percent, age 60	.34656
TABLE S value at 5.8 percent, age 70	.49025
TABLE 2000CM value at age 70	74794
TABLE 2000CM value at age 60	87595
TABLE B value at 5.8 percent, 10 years	.569041
TABLE K value at 5.8 percent	1.0143

Factor for donor's retained interest at 5.8 percent:

$$\frac{(1.00000 - .34656) - (.569041 \times (74794/87595) \times (1.00000 - .49025)) = 6.9959}{.058}$$

Present value of donor's retained interest:
($6,000 × 6.9959 × 1.0143) $42,575.65:

(B) *Unitrust interests.* The present value of a unitrust interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with values from the tables in §§ 1.664–4(e)(6) and 1.664–4T(e)(7) as described in the following example:

Example. The donor who, as of the nearest birthday, is 60 years old, transfers $100,000 to a unitrust on January 1st of a year after 2009. The trust instrument requires that each year the trust pay to the donor, in equal semiannual installments on June 30th and December 31st, 6 percent of the fair market value of the trust assets, valued as of January 1st each year, for 10 years or until the prior death of the donor. The section 7520 rate for the January in which the transfer occurred is 6.6 percent. Under Table F(6.6) in § 1.664–4(e)(6), the appropriate adjustment factor is .953317 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 5.720 percent (6% × .953317). The present value of the donor's retained interest is $41,920.00 determined as follows:

TABLE U(1) value at 5.6 percent, age 60	.33970
TABLE U(1) value at 5.6 percent, age 70	.48352
TABLE 2000CM value at age 70	74794
TABLE 2000CM value at age 60	87595
TABLE D value at 5.6 percent, 10 years	.561979

Factor for donor's retained interest at 5.6 percent:
(1.000000 − .33970) − (.561979 × (74794/87595) × (1.000000 − .48352)) = .41247

TABLE U(1) value at 5.8 percent, age 60	.32846
TABLE U(1) value at 5.8 percent, age 70	.47241
TABLE 2000CM value at age 70	74794
TABLE 2000CM value at age 60	87595
TABLE D value at 5.8 percent, 10 years	550185

Factor for donor's retained interest at 5.8 percent:
(1.000000 − .32846) − (.550185 × (74974/87595) × (1.000000 − .47241)) = .42369
Difference – .01122

Interpolation adjustment:

$$\frac{5.720\% - 5.6\%}{0.2\%} = \frac{x}{.01122}$$

$$x = .00673$$

Factor at 5.6 percent, age 60	.41247
Plus: Interpolation adjustment	.00673
Interpolated Factor	.41920
Present value of donor's retained interest: ($100,000 × .41920)	41,920.00

(3) *Transitional rule.* If the valuation date of a transfer of property by gift is on or after May 1, 2009, and before July 1, 2009, the fair market value of the interest transferred is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 25.7520–1(b) and 25.7520–2(a)(2)) and the appropriate actuarial tables under either § 20.2031–7T(d)(7) or § 20.2031–7A(f)(4), at the option of the donor. However, with respect to each individual transaction and with respect to all transfers occurring on the valuation date, the donor must use the same actuarial tables (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all transfers made on the same date must be valued based on the same tables).

(4) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in § 20.2031–7(d)(6) or § 20.2031–7T(d)(7) are included in Internal Revenue Service Publication 1457, ''Actuarial Valuations Version 3A'' (2009). Internal Revenue Service Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. A copy of this publication is available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov.* If a special factor is required in the case of a completed gift, the Internal Revenue Service may furnish the factor to the donor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*)) and include payment of the required user fee.

(e) *Effective/applicability date.* This section applies on or after May 1, 2009.

(f) *Expiration date.* This section expires on or before May 1, 2012.

■ **Par. 33.** The undesignated center heading immediately preceding § 25.2512–5A is revised to read as follows:

Actuarial Tables Applicable Before May 1, 2009

■ **Par. 34.** Section 25.2512–5A is amended by revising the section heading and adding paragraph (f) to read as follows:

§ 25.2512–5A Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred before May 1, 2009.

* * * * *

(f) *Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred after April 30, 1999, and before May 1, 2009*—(1) *In general.* Except as otherwise provided in §§ 25.2512–5(b) and 25.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date of the transferred interest is after April 30, 1999, and before May 1, 2009, the fair market value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift is the present value of the interests determined by use of standard or special section 7520 actuarial factors and the valuation methodology described in § 25.2512–5T(d). Sections 20.2031–7(d)(6) and 20.2031–7A(f)(4) and related sections provide tables with standard actuarial factors and examples that illustrate how to use the tables to compute the present value of ordinary annuity, life, and remainder interests in property. These sections also refer to standard and special actuarial factors that may be necessary to compute the present value of similar interests in more unusual fact situations. These factors and examples are also generally applicable for gift tax purposes in computing the values of taxable gifts.

(2) *Transitional rule.* If the valuation date of a transfer of property by gift is after April 30, 1999, and before July 1, 1999, the fair market value of the interest transferred is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (see §§ 25.7520–1(b) and 25.7520–2(a)(2)) and the appropriate actuarial tables under either § 20.2031–7A(e)(4) or § 20.2031–7A(f)(4), at the option of the donor. However, with respect to each individual transaction and with respect to all transfers occurring on the valuation date, the donor must use the same actuarial tables (for example, gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all transfers made on the same date must be valued based on the same tables).

(3) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in §§ 20.2031–7(d)(6) and 20.2031–7A(f)(4) are included in Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (7–99). Internal Revenue Service Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. Publication 1457 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office. However, pertinent factors in this publication may be obtained from: CC:PA:LPD:PR (IRS Publication 1457), Room 5205, Internal Revenue Service, P.O.Box 7604, Ben Franklin Station, Washington, DC 20044. If a special factor is required in the case of a completed gift, the Internal Revenue Service may furnish the factor to the donor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*)) and include payment of the required user fee.

(4) *Effective/applicability dates.* Paragraphs (f)(1) through (f)(3) apply after April 30, 1999, and before May 1, 2009.

■ **Par. 35.** Section 25.2522(c)–3 is amended by revising paragraph (e) to read as follows:

§ 25.2522(c)–3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

* * * * *

(e) [Reserved]. For further guidance, see § 25.2522(c)–3T(e).

■ **Par. 36.** Section 25.2522(c)–3T is added as follows:

§ 25.2522(c)–3T Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969 (temporary).

(a) through (d) [Reserved]. For further guidance, see § 25.2522(c)–3(a) through (d).

(e) *Effective/applicability date.* This section applies only to gifts made after July 31, 1969. In addition, the rule in paragraphs (c)(2)(vi)(a) and (c)(2)(vii)(a) of this section that guaranteed annuity interests or unitrust interests, respectively, may be payable for a specified term of years or for the life or lives of only certain individuals applies to transfers made on or after April 4, 2000. If a transfer is made on or after April 4, 2000, that uses an individual other than one permitted in paragraphs (c)(2)(vi)(a) and (c)(2)(vii)(a) of this section, the interest may be reformed into a lead interest payable for a specified term of years. The term of years is determined by taking the factor for valuing the annuity or unitrust interest for the named individual measuring life and identifying the term of years (rounded up to the next whole year) that corresponds to the equivalent term of years factor for an annuity or unitrust interest. For example, in the case of an annuity interest payable for the life of an individual age 40 at the time of the transfer on or after May 1, 2009, assuming an interest rate of 7.4 percent under section 7520, the annuity factor from column 1 of Table S(7.4), contained in IRS Publication 1457, Actuarial Valuations Version 3A, for the life of an individual age 40 is 12.1519 (1—.10076/.074). Based on Table B(7.4), contained in Publication 1457, Actuarial Valuations Version 3A, the factor 12.1519 corresponds to a term of years between 32 and 33 years. Accordingly, the annuity interest must be reformed into an interest payable for a term of 33 years. A judicial reformation must be commenced prior to October 15th of the year following the year in which the transfer is made and must be completed within a reasonable time after it is commenced. A non-judicial reformation is permitted if effective under state law, provided it is completed by the date on which a judicial reformation must be commenced. In the alternative, if a court, in a proceeding that is commenced on or before July 5, 2001, declares any transfer, made on or after April 4, 2000, and on or before March 6, 2001, null and void ab initio, the Internal Revenue Service will treat such transfers in a manner similar to that described in section 2055(e)(3)(J).

■ **Par. 37.** Section 25.7520–1 is amended by:

■ 1. Revising the section heading.

■ 2. Revising the second sentence of paragraph (a)(1) and revising paragraph (a)(2).

■ 3. Removing the last two sentences of paragraph (b)(2) and adding a new sentence at the end.

■ 4. Revising paragraphs (c)(1), (c)(2), and (d).

■ The revisions and additions read as follows:

§ 25.7520–1 Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests prior to May 1, 2009.

* * * * *

(a) * * *(1) * * * For periods prior to May 1, 2009, see § 20.2031–7A for the computation of the value of annuities, unitrust interests, life estates, terms for years, remainders, and reversions, other than interests described in paragraphs (a)(2) and (a)(3) of this section.

(2) For a gift to a pooled income fund prior to May 1, 2009, see § 1.642(c)–6A (Income Tax Regulations) with respect to the valuation of the remainder interest.

* * * * *

(b) * * *

(2) * * * For transactions with valuation dates after April 30, 1989, and before May 1, 2009, the mortality component tables are contained in § 20.2031–7A.

(c) * * *

(1) [Reserved]. For further guidance, see § 25.7520–1T(c)(1).

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 22 percent for valuation dates after April 30, 1999, and before May 1, 2009.* The following publications are no longer available for purchase from the Superintendent of Documents, United States Government Printing Office; however, they may be obtained from CC:PA:LPD:PR, Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044:

* * * * *

(d) *Effective/applicability dates.* This section applies after April 30, 1989, and before May 1, 2009.

■ **Par. 38.** Section 25.7520–1T is added to read as follows:

§ 25.7520–1T Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests on or after May 1, 2009 (temporary).

(a) *General actuarial valuations.* (1) Except as otherwise provided in this section and in § 25.7520–3 (relating to exceptions to the use of prescribed tables under certain circumstances), in the case of certain gifts after April 30, 1989, the fair market value of annuities, interests for life or for a term of years (including unitrust interests), remainders, and reversions is their present value determined under this section. See § 20.2031–7T(d) (and, for certain prior periods, § 20.2031–7A) for the computation of the value of annuities, unitrust interests, life estates, terms for years, remainders, and reversions, other than interests described in paragraphs (a)(2) and (a)(3) of this section.

(2) In the case of a gift to a beneficiary of a pooled income fund on or after May 1, 2009, see § 1.642(c)–6T(e) (or, for certain prior periods, § 1.642(c)–6A) with respect to the valuation of the remainder interest.

(3) [Reserved]. For further guidance, see § 25.7520–1(a)(3).

(b)(1) [Reserved]. For further guidance, see § 25.7520–1(b)(1).

(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the revised mortality component tables will be published in the regulations at that time. For gifts with valuation dates on or after May 1, 2009, the mortality component table (Table 2000CM) is contained in § 20.2031–7T(d)(7). See § 20.2031–7A for mortality component tables applicable to gifts for which the valuation date falls before May 1, 2009.

(c) [Reserved]. For further guidance, see § 25.7520–1(c).

(1) *Regulation sections containing tables with interest rates between 0.2 and 14 percent for valuation dates on or after May 1, 2009.* Section 1.642(c)–6T(e)(6) contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5. See § 1.642(c)–6A for single life remainder factors applicable to valuation dates before May 1, 2009. Section 1.664–4(e)(6) contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section 1.664–4T(e)(7) contains Table U(1) (unitrust single life remainder factors). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3. See § 1.664–4A for unitrust single life remainder factors applicable to valuation dates before May 1, 2009. Section 20.2031–7(d)(6) contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), and Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–

7T(d)(7) contains Table S (single life remainder factors), and Table 2000CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A for single life remainder factors and mortality components applicable to valuation dates before May 1, 2009.

(2) *Internal Revenue Service publications containing tables with interest rates between 0.2 and 22 percent for valuation dates on or after May 1, 2009.* The following documents are available beginning May 1, 2009, at no charge, electronically via the IRS Internet site at *http://www.irs.gov*:

(i) Internal Revenue Service Publication 1457, ''Actuarial Valuations Version 3A'' (2009). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 and a pooled income fund as defined in § 1.642(c)–5.

(ii) Internal Revenue Service Publication 1458, ''Actuarial Valuations Version 3B'' (2009). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3.

(iii) Internal Revenue Service Publication 1459, ''Actuarial Valuations Version 3C'' (2009). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12T.

(d) *Effective/applicability date.* This section applies on or after May 1, 2009.

(e) *Expiration date.* This section expires on or before May 1, 2012.

■ **Par. 39.** Section 25.7520–3 is amended by revising paragraph (b)(2)(v), *Example 5* and paragraph (b)(4) to read as follows:

§ 25.7520–3 Limitation on the application of section 7520.

* * * * *

(b) * * *

(2) * * *

(v) * * *

Example 5. [Reserved]. For further guidance, see § 25.7520–3T(b)(2)(v) *Example 5.*

* * * * *

(4) [Reserved]. For further guidance, see § 25.7520–3T(b)(4).

* * * * *

■ **Par. 40**. Section 25.7520–3T is added as follows:

§ 25.7520–3T Limitation on the application of section 7520 (temporary).

(a) through (b)(2)(iv) [Reserved]. For further guidance, see § 25.7520–3(a) through (b)(2)(iv).

(b)(2)(v) *Examples 1* through *4.* [Reserved]. For further guidance, see § 25.7520–3(b)(2)(v) *Examples 1* through *4.*

Example 5. Eroding corpus in an annuity trust. (i) The donor, who is age 60 and in normal health, transfers property worth $1,000,000 to a trust on or after May 1, 2009. The trust will pay a 10 percent ($100,000 per year) annuity to a charitable organization for the life of the donor, payable annually at the end of each period, and the remainder then will be distributed to the donor's child. The section 7520 rate for the month of the transfer is 6.8 percent. First, it is necessary to determine whether the annuity may exhaust the corpus before all annuity payments are made. Because it is assumed that any measuring life may survive until age 110, any life annuity could require payments until the measuring life reaches age 110. Based on a section 7520 interest rate of 6.8 percent, the determination of whether the annuity may exhaust the corpus before the annuity payments are made is computed as follows:

Age to which life annuity may continue	110
Less: Age of measuring life at date of transfer	60
Number of years annuity may continue	50
Annual annuity payment	$100,000.00
Times: Annuity factor for 50 years derived from Table B (1—.037277/.068)	14.1577
Present value of term certain annuity	$1,415,770.00

(ii) Because the present value of an annuity for a term of 50 years exceeds the corpus, the annuity may exhaust the trust before all payments are made. Consequently, the annuity must be valued as an annuity payable for a term of years or until the prior death of the annuitant, with the term of years determined by when the fund will be exhausted by the annuity payments.

(iii) The annuity factor for a term of years at 6.8 percent is derived by subtracting the applicable remainder factor in Table B (see § 20.2031–7(d)(6)) from 1.000000 and then dividing the result by .068. An annuity of $100,000 payable at the end of each year for a period that has an annuity factor of 10.0 would have a present value exactly equal to the principal available to pay the annuity over the term. The annuity factor for 17 years is 9.8999 and the annuity factor for 18 years is 10.2059. Thus, it is determined that the $1,000,000 initial transfer will be sufficient to make 17 annual payments of $100,000, but not to make the entire 18th payment. The present value of an annuity of $100,000 payable at the end of each year for 17 years certain is $100,000 times 9.8999 or $989,990. The remaining amount is $10,010.00. Of the initial corpus amount, $10,010.00 is not needed to make payments for 17 years, so this amount, as accumulated for 18 years, will be available for the final payment. The 18-year accumulation factor is $(1 + 0.068)^{18}$ or 3.268004. Then the amount available in 18 years is $10,010.00 times 3.268004 or $32,712.72. Therefore, for purposes of analysis we consider the annuity payments as being composed of two distinct annuity components. The two annuity components taken together must equal the total annual amount of $100,000. The first annuity is the exact amount that the trust will have available for the final payment, $32,712.72. The second annuity component then must be $100,000 minus $32,712.72, or $67,287.28. Specifically, the initial corpus will be able to make payments of $67,287.28 per year for 17 years plus payments of $32,712.72 per year for 18 years. The total annuity is valued by adding the value of the two separate temporary component annuities.

(iv) Based on Table H of Publication 1457, Actuarial Valuations Version 3A, which may be obtained from the IRS Internet site, the present value of an annuity of $67,287.28 per year payable for 17 years or until the prior death of a person aged 60 is $597,013.12 ($67,287.28 × 8.8726). The present value of an annuity of $32,712.72 per year payable for 18 years or until the prior death of a person aged 60 is $296,887.56 ($32,712.72 × 9.0756). Thus, the present value of the charitable annuity interest is $893,900.68 ($597,013.12 + $296,887.56).

(3) [Reserved]. For further guidance, see § 25.7520–3(b)(3).

(4) *Example.* The provisions of paragraph (b)(3) of this section are illustrated by the following example:

Example. Terminal illness. The donor transfers property worth $1,000,000 to a child on or after May 1, 2009, in exchange for the child's promise to pay the donor $80,000 per year for the donor's life, payable annually at the end of each period. The donor is age 75 but has been diagnosed with an incurable illness and has at least a 50 percent probability of dying within 1 year. The section 7520 interest rate for the month of the transfer is 7.6 percent, and the standard annuity factor at that interest rate for a person age 75 in normal health is 6.6493 (1 − .49465/.076). Thus, if the donor were not

terminally ill, the present value of the annuity would be $531,944.00 ($80,000 × 6.6493). Assuming the presumption provided in paragraph (b)(3) of this section does not apply, because there is at least a 50 percent probability that the donor will die within 1 year, the standard section 7520 annuity factor may not be used to determine the present value of the donor's annuity interest. Instead, a special section 7520 annuity factor must be computed that takes into account the projection of the donor's actual life expectancy.

(5) [Reserved]. For further guidance, see § 25.7520–3(b)(5).

(c) *Effective/applicability dates.* Section 25.7520–3(a) is effective as of May 1, 1989. The provisions of paragraph (b) of this section, except *Example 5* in paragraph (b)(2)(v) and paragraph (b)(4), are effective with respect to gifts made after December 13, 1995. *Example 5* in paragraph (b)(2)(v) and paragraph (b)(4) are effective with respect to gifts made on or after May 1, 2009.

■ **Par. 41.** For each section listed in the table below, remove the language in the ''Remove'' column and add in its place the language in the ''Add'' column as set forth below:

Section	Remove	Add
§ 1.170A–12(e)(2) following the formula	Table 90CNSMT in § 20.2031–7	Table 2000CM in § 20.2031–7T.
§ 1.170A–14(h)(4), *Example 2* fourth sentence	May 1, 1999	May 1, 2009.
§ 1.664–1(a)(6) introductory text	§§ 1.664–4(e) and 1.664–4A(d) and (e)	§§ 1.664–4T(e) and 1.664-4A.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: April 23, 2009.

Bernard J. Knight, Jr.,

Acting General Counsel of the Treasury.

[FR Doc. E9–10111 Filed 5–1–09; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25

[REG–107845–08]

RIN 1545–BH67

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: These proposed regulations relate to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests. These regulations will affect the valuation of inter vivos and testamentary transfers of interest dependent on one or more measuring lives. These regulations are necessary because section 7520(c)(3) directs the Secretary to update the actuarial tables to reflect the most recent mortality experience available. The text of the temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** also serves as the text of these proposed regulations.

DATES: Written and electronic comments and requests for a public hearing must be received by August 5, 2009.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–107845–08), room 5205, Internal Revenue Service, 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–107845–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent via the Federal eRulemaking Portal at *http://www.regulations.gov* (REG–107845–08).

FOR FURTHER INFORMATION CONTACT: Mayer R. Samuels, (202) 622–3090; concerning submissions of comments, *Richard.A.Hurst@irscounsel.treas.gov,* (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend Income Tax Regulations (26 CFR part 1) under sections 642(c)(5) and 664, Estate Tax Regulations (26 CFR part 20) under section 2031, and Gift Tax Regulations (26 CFR part 25) under section 2512. These regulations revise actuarial tables used for the valuation of partial interests in property under section 7520 to reflect the mortality experience based on the 2000 United States census, the most recent mortality experience available.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 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 a collection of information requirement on small entities, 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 rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Mayer R. Samuels, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.170A–12 is amended as follows:

1. Paragraphs (b)(2) and (b)(3) are revised.
2. Paragraph (f) is added.

The revisions and addition read as follows:

§ 1.170A–12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

* * * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 1.170A–12T(b)(2) published elsewhere in this issue of the **Federal Register**].

(3) [The text of this proposed paragraph (b)(3) is the same as the text of § 1.170A–12T(b)(3) published elsewhere in this issue of the **Federal Register**].

* * * * *

(f) [The text of this proposed paragraph (f) is the same as the text of § 1.170A–12T(f) published elsewhere in this issue of the **Federal Register**].

* * * * *

Par. 3. Section 1.642(c)–6 is amended by revising paragraphs (d), (e) and (f) to read as follows:

§ 1.642(c)–6 Valuation of a remainder interest in property transferred to a pooled income fund.

* * * * *

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.642(c)–6T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 1.642(c)–6T(e) published elsewhere in this issue of the **Federal Register**].

(f) [The text of this proposed paragraph (f) is the same as the text of § 1.642(c)–6T(f) published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 1.664–4 is amended by revising paragraphs (a)(1), (d), (e)(1),

(e)(2), (e)(5), (e)(7), and (f) to read as follows:

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) * * *

(1) [The text of this proposed paragraph (a)(1) is the same as the text of § 1.664–4T(a)(1) published elsewhere in this issue of the **Federal Register**].

* * * * *

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.664–4T(d) published elsewhere in this issue of the **Federal Register**].

(e)(1) [The text of this proposed paragraph (e)(1) is the same as the text of § 1.664–4T(e)(1) published elsewhere in this issue of the **Federal Register**].

(e)(2) [The text of this proposed paragraph (e)(2) is the same as the text of § 1.664–4T(e)(2) published elsewhere in this issue of the **Federal Register**].

* * * * *

(e)(5) [The text of this proposed paragraph (e)(5) is the same as the text of § 1.664–4T(e)(5) published elsewhere in this issue of the **Federal Register**].

* * * * *

(e)(7) [The text of this proposed paragraph (e)(7) is the same as the text of § 1.664–4T(e)(7) published elsewhere in this issue of the **Federal Register**].

(f) [The text of this proposed paragraph (f) is the same as the text of § 1.664–4T(f) published elsewhere in this issue of the **Federal Register**].

Par. 5. Section 1.7520–1 is amended by revising paragraphs (a)(1), (a)(2), (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 1.7520–1 Valuation of annuities, unitrust interest, interests for life or terms of years, and remainder or reversionary interests.

(a)(1) [The text of this proposed paragraph (a)(1) is the same as the text of § 1.7520–1T(a)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (a)(2) is the same as the text of § 1.7520–1T(a)(2) published elsewhere in this issue of the **Federal Register**].

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 1.7520–1T(b)(2) published elsewhere in this issue of the **Federal Register**].

(c) * * *

(1) [The text of this proposed paragraph (c)(1) is the same as the text of § 1.7520–1T(c)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (c)(2) is the same as the text of § 1.7520–1T(c)(2) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.7520–1T(d) published elsewhere in this issue of the **Federal Register**].

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

Par. 6. The authority citation for part 20 continues to read in part as follows:

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

Par. 7. Section 20.2031–7 is amended by revising paragraphs (c), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(7), and (e) to read as follows:

§ 20.2031–7 Valuation of annuities, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) [The text of this proposed paragraph (c) is the same as the text of § 20.2031–7T(c) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d)(1) through (d)(5) is the same as the text of § 20.2031–7T(d)(1) through (d)(5) published elsewhere in this issue of the **Federal Register**].

* * * * *

(7) [The text of this proposed paragraph (d)(7) is the same as the text of § 20.2031–7T(d)(7) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 20.2031–7T(e) published elsewhere in this issue of the **Federal Register**].

Par. 8. Section 20.2032–1 is amended by revising paragraphs (f)(1) and (h) to read as follows:

§ 20.2032–1 Alternate valuation.

* * * * *

(f) * * *

(1) [The text of this proposed paragraph (f)(1) is the same as the text of § 20.2032–1T(f)(1) published elsewhere in this issue of the **Federal Register**].

* * * * *

(h) [The text of this proposed paragraph (h) is the same as the text of § 20.2032–1T(h) published elsewhere in this issue of the **Federal Register**].

Par. 9. Section 20.2055–2 is amended by revising paragraphs (e)(3)(iii) and (f)(4) to read as follows:

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(e) * * *

(3) * * *

(iii) [The text of this proposed paragraph (e)(3)(iii) is the same as the text of § 20.2055–2T(e)(3)(iii) published elsewhere in this issue of the **Federal Register**].

* * * * *

(f) * * *

(4) [The text of this proposed paragraph (f)(4) is the same as the text of § 20.2055–2T(f)(4) published elsewhere in this issue of the **Federal Register**].

Par. 10. Section 20.2056A–4 is amended by revising paragraph (c)(4)(ii)(B) and *Example 4* in paragraph (d) to read as follows:

§ 20.2056A–4 Procedures for conforming marital trusts and nontrust marital transfers to the requirements of a qualified domestic trust.

* * * * *

(c) * * *

(4) * * *

(ii) * * *

(B) [The text of this proposed paragraph (c)(4)(ii)(B) is the same as the text of § 20.2056A–4T(c)(4)(ii)(B) published elsewhere in this issue of the **Federal Register**].

* * * * *

(d) * * *

Example 4. [The text of this proposed paragraph (d), *Example 4* is the same as the text of *Example 4* in § 20.2056A–4T(d) published elsewhere in this issue of the **Federal Register**].

Par. 11. Section 20.7520–1 is amended by revising paragraphs (a)(1), (a)(2), (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 20.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

(a) * * * (1) [The text of this proposed paragraph (a)(1) is the same as the text of § 20.7520–1T(a)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (a)(2) is the same as the text of § 20.7520–1T(a)(2) published elsewhere in this issue of the **Federal Register**].

(3) * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 20.7520–1T(b)(2) published elsewhere in this issue of the **Federal Register**].

(c) * * *

(1) [The text of this proposed paragraph (c)(1) is the same as the text of § 20.7520–1T(c)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (c)(2) is the same as the text of § 20.7520–1T(c)(2) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 20.7520–1T(d) published elsewhere in this issue of the **Federal Register**].

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 12. The authority citation for part 25 continues to read in part as follows:

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

Par. 13. Section 25.2512–5 is amended by revising paragraphs (c), (d) and (e) to read as follows:

§ 25.2512–5 Valuation of annuities, unitrust interest, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) [The text of this proposed paragraph (c) is the same as the text of § 25.2512–5T(c) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 25.2512–5T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 25.2512–5T(e) published elsewhere in this issue of the **Federal Register**].

Par. 14. Section 25.2522(c)-3 is amended by revising paragraph (e) to read as follows:

§ 25.2522(c)–3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

* * * * *

(e) [The text of this proposed paragraph (e) is the same as the text of § 25.2522(c)-3T(e) published elsewhere in this issue of the **Federal Register**].

Par. 15. Section 25.7520–1 is amended by revising paragraphs (a)(1), (a)(2), (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 25.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

(a) * * * (1) [The text of this proposed paragraph (a)(1) is the same as the text of § 25.7520–1T(a)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (a)(2) is the same as the text of § 25.7520–1T(a)(2) published elsewhere in this issue of the **Federal Register**].

(3) * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 25.7520–1T(b)(2) published elsewhere in this issue of the **Federal Register**].

(c) * * *

(1) [The text of this proposed paragraph (c)(1) is the same as the text of § 25.7520–1T(c)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (c)(2) is the same as the text of § 25.7520–1T(c)(2) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 25.7520–1T(d) published elsewhere in this issue of the **Federal Register**].

Par. 16. Section 25.7520–3 is amended as follows:

1. In paragraph (b)(2)(v), *Example 5* is revised.
2. Paragraph (b)(4) is revised.
3. Paragraph (c) is revised.

The revised text reads as follows:

§ 25.7520–3 Limitation on the application of section 7520.

* * * * *

(b) * * *

(2) * * *

(v) * * *

Example 5. [The text of this proposed paragraph (b)(2)(v), *Example 5* is the same as the text of § 25.7520–3T(b)(2)(v), *Example 5,* published elsewhere in this issue of the **Federal Register**].

* * * * *

(b)(4) [The text of this proposed paragraph (b)(4) is the same as the text of § 25.7520–3T(b)(4) published elsewhere in this issue of the **Federal Register**].

* * * * *

(c) [The text of this proposed paragraph (c) is the same as the text of § 25.7520–3T(c) published elsewhere in this issue of the **Federal Register**].

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E9–10110 Filed 5–1–09; 4:15 pm]

BILLING CODE 4830–01–P

Federal Register

Thursday,
May 7, 2009

Part III

Department of Labor

Delegation of Authority and Assignment of Responsibilities to the Employee Benefits Security Administration; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 6–2009]

Delegation of Authority and Assignment of Responsibilities to the Employee Benefits Security Administration

1. *Purpose.* To delegate authority and assign responsibilities for the administration of the Department of Labor's responsibilities under the Employee Retirement Income Security Act of 1974 (ERISA), Federal Employees' Retirement System Act of 1986 (FERSA), and certain other statutes.

2. *Authority and Directives Affected.* This order supersedes Secretary's Order 1–2003, 68 FR 5374 (Feb. 3, 2003).

3. *Background.* ERISA places responsibility in the Department of Labor for the administration of a comprehensive program to protect the interests of participants and beneficiaries of private sector employee benefit plans. Secretary's Order 1–2003 delegated authority for this program to the Assistant Secretary for Employee Benefits Security.

FERSA requires the Department of Labor to, among other things, administer and enforce the fiduciary responsibility, prohibited transaction, and bonding provisions of FERSA. Secretary's Order 1–2003 also delegated these responsibilities to the Assistant Secretary for Employee Benefits Security.

Secretary's Order 16–2006, 71 FR 67024 (Nov. 17, 2006), delegates the authority and responsibility to invoke governmental privileges on a Department-wide basis and supersedes the delegation of such authority and responsibility in Secretary's Order 1–2003.

The Health Insurance Portability and Accountability Act of 1996, amended ERISA and separated allocated certain additional authority and responsibilities to the Secretary of Labor.

Two recently enacted statutes, the American Recovery and Reinvestment Act of 2009 and the Children's Health Insurance Program Reauthorization Act of 2009 have given the Secretary of Labor new authority and responsibilities.

4. *Delegation of Authority and Assignment of Responsibilities*

A. Except as hereinafter provided, the Assistant Secretary for Employee Benefits Security is delegated the authority (including the authority to re-delegate) and assigned the responsibilities of the Secretary of Labor—

(1) under the following statutes, including any amendments:

(a) The Employee Retirement Income Security Act of 1974, as amended, except for subtitle C of Title III and Title IV (29 U.S.C. 1001–1232);

(b) The Welfare and Pension Plans Disclosure Act of 1958, as amended Public Law 85–836, 72 Stat. 997; Public Law 86–624, 74 Stat. 417; Public Law 87–420, 76 Stat. 35.

(c) The Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8401–8479);

(d) The Health Insurance Portability and Accountability Act of 1996, Public Law 104–191, 110 Stat. 1936;

(e) Section 311(b) the Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111–3, 123 Stat. 65;

(f) Section 3001 of the American Recovery and Reinvestment Act of 2009 Public Law 111–5; and

(g) As directed by the Secretary, such additional Federal acts similar to or related to those listed in paragraphs (i) through (v), above, that from time to time may assign additional authority or responsibilities to the Department or the Secretary.

(2) to request information the Internal Revenue Service (IRS) possesses for use in connection with the administration of Title I of ERISA of 1974.

B. *The Assistant Secretary for Administration and Management* is responsible for providing all administrative support services to the Employee Benefits Security Administration such as personnel, payroll, budget, accounting, contracting and grants and other such services deemed necessary in support of the agency's mission.

C. *The Chief Financial Officer* is delegated authority and assigned responsibility, in accordance with applicable appropriations enactments, for establishing policies and procedures: That ensure the accounting, financial, and asset management systems of the Department are designed, maintained, and used effectively to provide financial or program performance data for financial statements; ensure financial and related program performance data are provided on a reliable, consistent, and timely basis; and, ensure that financial statements support assessments and revisions of mission-related processes and administrative processes and performance management of the program activities.

D. *The Solicitor of Labor* is responsible for providing legal advice and assistance to all officials of the Department relating to the administration of the statutes listed in paragraph 5.a.(1) of this order, for bringing appropriate legal actions on behalf of the Secretary, and representing the Secretary in all civil proceedings. The Solicitor of Labor is also authorized to request information the IRS possesses for use in connection with the administration of Title I of ERISA.

E. *The Inspector General* is authorized to request information the IRS possesses for use in connection with the administration of Title I of ERISA.

5. *Reservation of Authority.* The submission of reports and recommendations to the President and the Congress concerning the administration of the statutes listed in paragraph 5.a.(1) of this order and responsibilities under Subtitle C of Title III of ERISA are reserved to the Secretary. The Pension Benefit Guaranty Corporation carries out responsibilities under Title IV of ERISA.

6. *Effective Date.* This order is effective immediately.

Dated: April 30, 2009.

Hilda L. Solis,

Secretary of Labor.

[FR Doc. E9–10553 Filed 5–6–09; 8:45 am]

BILLING CODE 4510–23–P

Federal Register

Thursday,
May 7, 2009

Part IV

The President

Proclamation 8371—Older Americans Month, 2009

Proclamation 8372—National Charter Schools Week, 2009

Memorandum of May 5, 2009—Biofuels and Rural Economic Development

Federal Register
Vol. 74, No. 87
Thursday, May 7, 2009

Presidential Documents

Title 3—

The President

Proclamation 8371 of May 4, 2009

Older Americans Month, 2009

By the President of the United States of America

A Proclamation

Older Americans have carried our Nation through great challenges and triumphs. They have enriched our national character and strengthened the Republic for those who have followed. During the month of May, we pay tribute to the wisest among us.

Throughout the land, older Americans are strengthening our communities and the American way of life. Many senior citizens remain in the workforce to support themselves and their families. Others are embarking on second careers and exploring new interests and fields of knowledge. Inspiring citizens of all ages, many serve as advocates and volunteers in community service roles. In this important work, they make a real difference in the daily lives of fellow citizens of all ages, while promoting and strengthening the American spirit of civic participation.

My Administration is working to create opportunities for older Americans to share their skills and wisdom with younger generations. One of the bills I recently signed into law, the Edward M. Kennedy Serve America Act, expands and improves service opportunities for older Americans. Our Nation can benefit greatly from the experience and hard work of our older Americans, and I am committed to providing service opportunities to achieve this end.

We owe older Americans a debt of gratitude and must work to help them age with dignity. Through home- and community-based services, including health promotion and preventive care programs, many older Americans are able to live more independent and healthier lives. This year's theme for Older Americans Month, ''Living Today for a Better Tomorrow,'' captures the importance of helping seniors today so they can enjoy the years ahead.

My Administration is committed to supporting older Americans and is working to strengthen health care, retirement, community involvement, and other programs vital to their interests and beneficial to all of us. Older Americans have earned this support, and we owe them nothing less.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 2009 as Older Americans Month. I invite Americans of all ages; representatives of government at all levels; businesses and communities; faith-based and neighborhood organizations; and health, academic, and recreational institutions to acknowledge the contributions of older Americans during this month and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of May, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

[FR Doc. E9–10859
Filed 5–6–09; 8:45 am]
Billing code 3195–W9–P

Presidential Documents

Proclamation 8372 of May 4, 2009

National Charter Schools Week, 2009

By the President of the United States of America

A Proclamation

Improving our schools is the collective responsibility of all Americans—business owners and workers, educators and parents, students and their communities. We must ensure that all students receive a high-quality education that delivers the knowledge and skills needed to succeed, and that young men and women stay on the path to graduation and a life-long commitment to learning.

Many successful public charter schools across the Nation are working to meet these goals. Founded by parents, teachers, and civic or community organizations, our Nation's public charter schools enjoy broad leeway to innovate.

The best public charter schools and their students are thriving in States that have adopted a rigorous selection and review process to ensure that autonomy is coupled with greater accountability. The growth of effective public charter schools benefits our children, and States have an important role to play in their expansion.

During National Charter Schools Week, we recognize these public charter schools for their dedication and commitment to achievement in education. They are models of excellence and are promoting the interests of our children, our economy, and our Nation as a whole.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 3 through May 9, 2009, as National Charter Schools Week. I commend our Nation's successful public charter schools, teachers, and administrators, and I call on States and communities to support public charter schools and the students they serve.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of May, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

[FR Doc. E9–10860
Filed 5–6–09; 8:45 am]
Billing code 3195–W9–P

Presidential Documents

Memorandum of May 5, 2009

Biofuels And Rural Economic Development

Memorandum for the Secretary of Agriculture, the Secretary of Energy, [and] the Administrator of the Environmental Protection Agency

In the Nation's ongoing efforts to achieve energy independence, biomass and biofuels promise to play a key role by providing the Nation with homegrown sustainable energy options and energizing our economy with new industries and jobs. While producing clean renewable fuels locally is a powerful engine of economic growth, they must be developed and used in a way that limits environmental impact. Today, the Environmental Protection Agency (EPA) is issuing a Notice of Proposed Rulemaking, as required by the Energy Independence and Security Act of 2007, to set new national renewable fuel standards and implement those standards. The public will have an opportunity to provide input on this proposal through a 60-day comment period, and the EPA is conducting peer reviews on key aspects of the environmental impact assessments within the proposal.

In order to shepherd our Nation's development of this important industry and to coordinate interagency policy, I hereby establish a Biofuels Interagency Working Group (Working Group), to be co-chaired by the Secretaries of Agriculture and Energy and the Administrator of the EPA. This Working Group will coordinate with the National Science and Technology Council's Biomass Research and Development Board in undertaking its work. The responsibilities of the Working Group shall include:

(a) Developing the Nation's first comprehensive biofuel market development program, which shall use existing authorities and identify new policies to support the development of next-generation biofuels, increase flexible fuel vehicle use, and assist in retail marketing efforts;

(b) Coordinating infrastructure policies affecting the supply, secure transport, and distribution of biofuels; and

(c) Identifying new policy options to promote the environmental sustainability of biofuels feedstock production, taking into consideration land use, habitat conservation, crop management practices, water efficiency and water quality, as well as lifecycle assessments of greenhouse gas emissions.

Alongside the Working Group's efforts, the Secretary of Agriculture may pursue other important biofuel development efforts. The Rural Development Act of 1972 and the Rural Development Policy Act of 1980 direct the Secretary of Agriculture to develop, in coordination with State and local governments, a nationwide rural development program to assure rural America's health and prosperity. In keeping with that mandate, and recognizing the key role rural America will play in the development of biofuel technology and development, I request that the Secretary of Agriculture take the following steps, to the extent permitted by law:

(a) Immediately begin restructuring existing investments in renewable fuels as needed to preserve industry employment; and

(b) Develop a comprehensive approach to accelerating the investment in and production of American biofuels and reducing our dependence on fossil fuels by providing, within 30 days, under the authorities made available in the Food, Conservation, and Energy Act of 2008:

(i) Loan guarantees for the development, construction, and retrofitting of commercial-scale biorefineries and grants to help pay for the development and construction costs of demonstration-scale biorefineries;

(ii) Expedited funding to encourage biorefineries to replace the use of fossil fuels in plant operations by installing new biomass energy systems or producing new energy from renewable biomass;

(iii) Expedited funding to biofuels producers to encourage production of next-generation biofuels from cellulosic biomass and other feedstocks;

(iv) Expansion of the Renewable Energy Systems and Energy Efficiency Improvements Program, which has been renamed the Rural Energy for America Program, to include hydroelectric source technologies, energy audits, and higher loan guarantee limits; and

(v) Guidance and support for collection, harvest, storage, and transportation assistance for eligible materials for use in biomass conversion facilities.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of Agriculture is hereby authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
Washington, May 5, 2009

[FR Doc. E9–10861
Filed 5–6–09; 8:45 am]
Billing code 3410–10–P

Reader Aids

Federal Register

Vol. 74, No. 87

Thursday, May 7, 2009

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S. 383/P.L. 111–15
Special Inspector General for the Troubled Asset Relief Program Act of 2009 (Apr. 24, 2009; 123 Stat. 1603)
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