

### V. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

### VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The cancellation order issued in this notice includes the following existing stocks provisions.

1. The registrant may continue to sell and distribute existing stocks of Fyfanon Technical, EPA Reg. No. 4787-5, and Malathion Technical, EPA Reg. No. 4787-43, with previously approved labeling that includes uses terminated by this cancellation order, until June 3, 2009.

2. Persons other than the registrant may continue to sell and/or distribute existing stocks of Fyfanon Technical, EPA Reg. No. 4787-5, and Malathion Technical, EPA Reg. No. 4787-43, with previously approved labeling that includes the terminated uses until such stocks are exhausted.

3. Persons other than the registrant may continue to use existing stocks of Fyfanon Technical, EPA Reg. No. 4787-5, and Malathion Technical, EPA Reg. No. 4787-43, with previously approved labeling that includes the terminated uses, provided that they are not used to formulate products labeled for any use described in Unit II. of this cancellation order, until such stocks are exhausted.

#### List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 25, 2008.

#### Steven Bradbury,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E8-28664 Filed 12-2-08; 8:45 am]

BILLING CODE 6560-50-S

### EXPORT-IMPORT BANK OF THE UNITED STATES

#### Sunshine Act Meeting

**ACTION:** Notice of a Partially Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

**TIME AND PLACE:** Friday, December 5, 2008 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

**OPEN AGENDA ITEMS:** Item No. 1: Ex-Im Bank Advisory Committee for 2009.

**PUBLIC PARTICIPATION:** The meeting will be open to public participation for Item No. 1 only.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Tele. No. 202-565-3957).

**Kamil Cook,**

*Deputy General Counsel.*

[FR Doc. E8-28623 Filed 12-2-08; 8:45 am]

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### FEDERAL MARITIME COMMISSION

[Docket No. 08-06]

#### Western Holding Group, Inc., Marine Express, Inc. and Corporación Ferries del Caribe, Inc. v. Mayagüez Port Commission and Holland Group Port Investment (Mayagüez), Inc.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint has been filed with the Federal Maritime Commission ("Commission") by Western Holding Group, Inc. ("Western Holding"), Marine Express, Inc. ("Marine Express") and Corporación Ferries del Caribe, Inc. ("Ferries del Caribe"), hereinafter "Complainants". Complainants assert that they are for-profit corporations organized and existing pursuant to the laws of the Commonwealth of Puerto Rico. Complainants allege that Respondent Mayagüez Port Commission ("Port Commission") is a public corporation and that Respondent Holland Group Port Investment (Mayagüez), Inc. ("Holland Group") is a for-profit corporation. Complainants further allege that both Respondent corporations are organized and existing pursuant to the laws of the Commonwealth of Puerto Rico.

Complainants assert that Complainant Western Holding owns and charters the vessel *M/V CARIBBEAN EXPRESS*.

Complainants aver that Marine Express and Ferries del Caribe transport passengers, goods and vehicles between the Dominican Republic and Puerto Rico on said vessel. Complainants Ferries del Caribe and Marine Express maintain that they are common carriers within the meaning of the Shipping Act of 1984, as amended ("The Shipping Act"). See 46 U.S.C. 40102(6).

Complainants assert that Respondent Mayagüez Port Commission is responsible for all port business within the Port of Mayagüez, and that Respondent Holland Group administers and operates the Mayagüez port facilities. Complainants contend that Respondents Mayagüez Port Commission and Holland Group are marine terminal operators within the meaning of The Shipping Act. See 46 U.S.C. 40102(14).

Complainants allege that ownership of the Port of Mayagüez was transferred to Respondent Port Commission in July 2004, with a requirement to honor the terms of Complainant Marine Express' existing lease, and that this requirement was not honored. Complainants contend that Respondents' actions, including aforesaid action, constitute violations of The Shipping Act including unjust, unreasonable and unlawful practices in violation of Section 41102(c), and unreasonable refusals to negotiate, unreasonable discrimination and undue or unreasonable prejudice and disadvantages in violation of Sections 41106(1)-(3). 46 U.S.C. 41102(c), 41106(1)-(3).

Complainants request that the Commission order Respondents to: (1) Cease and desist from the violations of The Shipping Act described in this Complaint; (2) establish and put in force such practices as the Commission determines lawful and reasonable; (3) pay to the Complainants reparations of \$25,000,000.00 including attorney's fees, interests and costs; and (4) take any other action or provide any other relief as the Commission determines to be warranted under the circumstances.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that

the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by November 26, 2009, and the final decision of the Commission shall be issued by March 26, 2010.

**Karen V. Gregory,**  
*Secretary.*

[FR Doc. E8-28638 Filed 12-2-08; 8:45 am]

BILLING CODE 6730-01-P

## FEDERAL MARITIME COMMISSION

[Petition No. P2-08]

**Petition of APM Terminals Pacific Ltd., California United Terminals, Inc.; Eagle Marine Services, Ltd.; International Transportation Services, Inc.; Long Beach Container Terminal, Inc.; Seaside Transportation Service LLC; Total Terminals LLC; West Basin Container Terminal LLC; Pacific Maritime Services, LLC; SSA Terminal (Long Beach), LLC Trans Pacific Container Service Corporation; Yusen Terminals, Inc.; and SSA Terminals, LLC, ("Marine Terminal Operators"); and Portcheck LLC; Notice of Filing and Request for Comments**

This is to provide notice of filing and to invite comments on or before December 15, 2008, with regard to the Petition described below.

The marine terminal operators as listed above and PortCheck LLC, parties to FMC Agreement No. 201199, the *Port Fee Services Agreement* ("Petitioners") have petitioned the Commission pursuant to 46 CFR 502.69 of the Commission's Rules of Practice and Procedure, for a review of a staff action taken concerning the effective date of Petitioners' agreement filed on November 3, 2008. In particular, Commission staff found that the agreement was not eligible for an exemption from the statutory 45-day agreement waiting period under Section 40304(c) of the Shipping Act of 1984 ("Shipping Act"), and the Commission's Rules at 46 CFR 535.308(a).

Certain interested parties have already submitted comments on this Petition. One letter, submitted by counsel on behalf of licensed motor carriers Swift Transportation Company and Knight Transportation, Inc., indicate that they have been "informed by the Ports" of the Commission staff action thereon. Accordingly, it appears that there may be broad public interest.

In order for the Commission to make a thorough evaluation of the Petition, interested persons are requested to submit views or arguments in reply to the Petition no later than December 15, 2008. Replies shall consist of an original and 15 copies, be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573-0001, and be served on Petitioner's counsel, David F. Smith and Wayne R. Rohde, Sher and Blackwell LLP, Suite 900, 1850 M Street, NW., Washington, DC 20036. A copy of the reply shall be submitted in electronic form (Microsoft Word) by e-mail to [Secretary@fmc.gov](mailto:Secretary@fmc.gov).

The Petition will be posted on the Commission's Web site at <http://www.fmc.gov/reading/Petitions.asp>. Replies filed in response to this petition also will be posted on the Commission's Web site at this location.

Parties participating in this proceeding may elect to receive service of the Commission's issuances in this proceeding through e-mail in lieu of service by U.S. mail. A party opting for electronic service shall advise the Office of the Secretary in writing and provide an e-mail address where service can be made.

**Karen V. Gregory,**  
*Secretary.*

[FR Doc. E8-28637 Filed 12-2-08; 8:45 am]

BILLING CODE 6730-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-1390-N2]

RIN 0938-AP15

### Medicare Program; Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates: Fiscal Year 2009 Wage Index Changes Following Implementation of Section 124 of the Medicare Improvement for Patients and Providers Act of 2008

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

**ACTION:** Notice.

**SUMMARY:** This notice contains fiscal year (FY) 2009 revised final wage indices and hospital reclassifications for 27 hospitals. These revised final wage indices and hospital reclassifications were made according to special procedural rules set forth in the FY 2009 hospital inpatient prospective payment systems final rule (73 FR 48588-9).

**DATES:** *Effective Date:* The provisions of this notice are effective on December 3, 2008,

*Applicability Date:* The final wage indices and hospital reclassifications are applicable for discharges beginning October 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** Tzvi Hefter, (410) 786-4487.

### SUPPLEMENTARY INFORMATION:

#### I. Background

On July 15, 2008 the Medicare Improvement for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110-275) was enacted. Section 124 of Public Law 110-275 extends through FY 2009 wage index reclassifications under section 508 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173) and certain special exceptions (for example, those special exceptions contained in the final rule promulgated in the August 11, 2004 **Federal Register** (69 FR 49105 and 49107) and extended under section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) (Pub. L. 110-173)). Because of the timing of the enactment of Public Law 110-275, we were not able to recompute the fiscal year (FY) 2009 wage index values for any hospital reclassified under section 508 and special exception hospitals in time for inclusion in the FY 2009 hospital inpatient prospective payment system final rule published in the August 19, 2008 **Federal Register** (73 FR 48434) (hereinafter referred to as the FY 2009 IPPS final rule). Instead, we stated that we would issue the final FY 2009 wage index values and other related tables, in a separate **Federal Register** notice published subsequent to the final rule.

In the October 3, 2008 **Federal Register** (73 FR 57888), we published the FY 2009 IPPS final notice including the final wage indices and geographic reclassifications. The final notice reflects the reclassification withdrawal and termination decisions we made on behalf of hospitals in accordance with special procedural rules explained in the FY 2009 IPPS final rule (73 FR 48588).

In accordance with such rules, hospitals had until October 20, 2008 to notify us if they wished to revise the decision that we made on their behalf. We received requests from 31 hospitals. Of these hospitals, three hospitals were ineligible for a revision because the hospitals were not reclassified to or located in areas containing hospitals whose reclassifications or special exceptions were extended by section 124 of Public Law 110-275. A fourth