



Federal Register

2-18-09

Vol. 74 No. 31

Wednesday

Feb. 18, 2009

Pages 7549-7640



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

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

WHO: Sponsored by the Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

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

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

RESERVATIONS: (202) 741-6008



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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 75

RIN 3150-AH38

[NRC-2008-0543]

Regulatory Changes To Implement the Additional Protocol to the US/IAEA Safeguards Agreement; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correcting amendment.

SUMMARY: On December 23, 2008 (73 FR 78599), the Nuclear Regulatory Commission (NRC) published a final rule that amended the NRC's regulations to implement the requirements under the *Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America* (Additional Protocol) for certain NRC and Agreement State licensees to report information on various nuclear fuel cycle-related activities and to provide the International Atomic Energy Agency (IAEA) with access to those locations. This document is necessary to correct an erroneous amendatory instruction which resulted in two undesignated center headings.

DATES: The correction is effective February 18, 2009, and is applicable to December 23, 2008, the date the original rule became effective.

ADDRESSES: You can access publicly available documents related to this document using the following methods:

Federal e-Rulemaking Portal: Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2008-0543. Address questions about NRC dockets to Carol Gallagher

301-492-3668; e-mail

Carol.Gallagher@nrc.gov.

NRC's Public Document Room (PDR):

The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

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FOR FURTHER INFORMATION CONTACT:

Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Office of Administration, Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-492-3663, e-mail Michael.Lesar@nrc.gov.

SUPPLEMENTARY INFORMATION: This document corrects an erroneous amendatory instruction which resulted in two undesignated center headings.

List of Subjects in 10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR Part 75.

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

■ 1. The authority citation for Part 75 continues to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as

amended (42 U.S.C. 5841); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

Section 75.4 also issued under secs. 135, 141, Public Law 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

2. On page 78613, in the third column, instruction 50 is corrected to read as follows: "50. Section 75.37 and the undesignated center heading "Installations Designated for IAEA Safeguards" that follows § 75.37 are removed."

Dated at Rockville, Maryland, this 10th day of February 2009.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration.

[FR Doc. E9-3390 Filed 2-17-09; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0122; Directorate Identifier 2008-NM-223-AD; Amendment 39-15813; AD 2009-04-07]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A330-200 and -300 Series Airplanes, and Airbus Model A340-200, -300, -500, and -600 Series Airplanes

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

ACTION: Final rule; request for comments.

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

An A330 aircraft experienced a sudden [uncommanded] nose down order [event] while in cruise. This order was preceded by an automatic autopilot disconnection and triggering of the "NAV IR1 FAULT" Electronic Centralised Aircraft Monitor (ECAM) Caution.

Investigations highlighted that at time of the event the Air Data Reference 1 (ADR) part

of ADIRU1 [Air Data Inertial Reference Unit] was providing erroneous and temporary wrong parameters in a random manner. This abnormal behaviour of the ADR1 led to several consequences such as unjustified stall and over speed warnings, loss of attitude information on Captain Primary Flight Display (PFD) and several ECAM warnings. Among the abnormal parameters, the provided Angle of Attack (AoA) value was such that the flight control computers commanded a sudden nose down aircraft movement, which constitutes an unsafe condition. * * *

* * * * *

These anomalies could result in high pilot workload, deviation from the intended flight path, and possible loss of control of the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective March 5, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications, listed in the AD as of March 5, 2009.

We must receive comments on this AD by March 20, 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.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1138; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency Airworthiness Directive 2009-0012-E, dated January 15, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

An A330 aircraft experienced a sudden [uncommanded] nose down order [event] while in cruise. This order was preceded by an automatic autopilot disconnection and triggering of the "NAV IR1 FAULT" Electronic Centralised Aircraft Monitor (ECAM) Caution.

Investigations highlighted that at time of the event the Air Data Reference 1 (ADR) part of ADIRU1 [Air Data Inertial Reference Unit] was providing erroneous and temporary wrong parameters in a random manner. This abnormal behaviour of the ADR1 led to several consequences such as unjustified stall and over speed warnings, loss of attitude information on Captain Primary Flight Display (PFD) and several ECAM warnings. Among the abnormal parameters, the provided Angle of Attack (AoA) value was such that the flight control computers commanded a sudden [uncommanded] nose down aircraft movement, which constitutes an unsafe condition. At this stage of the investigation, the analysis of available data indicates that ADIRU1 abnormal behaviour is likely at the origin of the event. Due to similar design, the A340 aircraft are also impacted by this issue.

In order to prevent the ADR from providing erroneous data to other aircraft systems, EASA [Emergency] AD 2008-0203-E [dated November 19, 2008] was issued to require, in case faulty Inertial Reference (IR) is detected, to isolate both the IR and ADR by accomplishment of a modified Aircraft Flight Manual (AFM) operational procedure.

Since that AD [EASA AD 2008-0203-E, dated November 19, 2008] was issued, it has been reported that the "OFF" light did not illuminate in the cockpit after setting the IR and ADR pushbuttons to OFF. Investigation has determined that the ADIRU was indeed sometimes affected by another failure control.

To prevent such a failure, the operational procedure has been updated to instruct the flight crew to de-energize the ADIRU if the "OFF" light is not illuminated after setting the IR and ADR pushbuttons to OFF. Consequently, [EASA Emergency] AD 2008-0225-E [dated December 18, 2008], which superseded [EASA Emergency] AD 2008-0203-E [dated November 19, 2008], requires accomplishment of the updated AFM operational procedure.

Since this second AD was issued [EASA Emergency AD 2008-0225-E, dated December 18, 2008], a new service event has been reported highlighting that, in some failure cases, even though the "OFF" light illuminates in the cockpit after setting the IR and ADR pushbuttons to OFF, the IR could

keep providing erroneous data to other systems.

In order to address all identified failure cases, de-energizing the affected ADIRU must be done by setting the IR mode rotary selector to OFF. Consequently, this AD, which supersedes AD 2008-0225-E [dated December 18, 2008], requires accomplishment of the updated AFM operational procedure.

The anomalies described above could result in high pilot workload, deviation from the intended flight path, and possible loss of control of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued A330 Temporary Revision 4.02.00/46, Issue 3, dated January 13, 2009, to the A330 (Airbus) Flight Manual; and A340 Temporary Revision 4.02.00/54, Issue 3, dated January 13, 2009, to the A340 (Airbus) Flight Manual. 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 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 issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the 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 required 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 AD.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to

the flying public justifies waiving notice and comment prior to adoption of this rule to prevent the ADR from providing erroneous data to other aircraft systems, which could result in high pilot workload, deviation from the intended flight path, and possible loss of control of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0122; Directorate Identifier 2008-NM-223-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this AD will not have federalism implications under

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

For the reasons discussed above, I certify this AD:

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

2009-04-07 Airbus: Amendment 39-15813. Docket No. FAA-2009-0122; Directorate Identifier 2008-NM-223-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 5, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330-200 and -300; and A340-200, -300, -500, and -600 series airplanes, certificated in any category, as listed in paragraphs (c)(1) and (c)(2) of this AD.

(1) A330-201, -202, -203, -223, -243, -301, -302, -303, -321, -322, -323, -341, -342, and -343 airplanes, all serial numbers, equipped with Northrop-Grumman (formerly Litton) Air Data Inertial Reference Units (ADIRUs), part number (P/N) 465020-0303-03ZZ (with ZZ from 09 up to 16 inclusive).

(2) A340-211, -212, -213, -311, -312, -313, -541, and -642 airplanes, all serial numbers, equipped with Northrop-Grumman

(formerly Litton) ADIRUs, P/N 465020-0303-03ZZ (with ZZ from 09 up to 16 inclusive).

Subject

(d) Air Transport Association (ATA) of America Code 34: Navigation.

Reason

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

An A330 aircraft experienced a sudden [uncommanded] nose down order [event] while in cruise. This order was preceded by an automatic autopilot disconnection and triggering of the "NAV IR1 FAULT" Electronic Centralised Aircraft Monitor (ECAM) Caution.

Investigations highlighted that at time of the event the Air Data Reference 1 (ADR) part of ADIRU1 [Air Data Inertial Reference Unit] was providing erroneous and temporary wrong parameters in a random manner. This abnormal behaviour of the ADR1 led to several consequences such as unjustified stall and over speed warnings, loss of attitude information on Captain Primary Flight Display (PFD) and several ECAM warnings. Among the abnormal parameters, the provided Angle of Attack (AoA) value was such that the flight control computers commanded a sudden [uncommanded] nose down aircraft movement, which constitutes an unsafe condition. At this stage of the investigation, the analysis of available data indicates that ADIRU1 abnormal behaviour is likely at the origin of the event. Due to similar design, the A340 aircraft are also impacted by this issue.

In order to prevent the ADR from providing erroneous data to other aircraft systems, EASA [Emergency] AD 2008-0203-E [dated November 19, 2008] was issued to require, in case faulty Inertial Reference (IR) is detected, to isolate both the IR and ADR by accomplishment of a modified Aircraft Flight Manual (AFM) operational procedure.

Since that AD [EASA AD 2008-0203-E, dated November 19, 2008] was issued, it has been reported that the "OFF" light did not illuminate in the cockpit after setting the IR and ADR pushbuttons to OFF. Investigation has determined that the ADIRU was indeed sometimes affected by another failure control.

To prevent such a failure, the operational procedure has been updated to instruct the flight crew to de-energize the ADIRU if the "OFF" light is not illuminated after setting the IR and ADR pushbuttons to OFF. Consequently, [EASA Emergency] AD 2008-0225-E [dated December 18, 2008], which superseded [EASA Emergency] AD 2008-0203-E [dated November 19, 2008], requires accomplishment of the updated AFM operational procedure.

Since this second AD was issued [EASA Emergency AD 2008-0225-E, dated December 18, 2008], a new service event has been reported highlighting that, in some failure cases, even though the "OFF" light illuminates in the cockpit after setting the IR and ADR pushbuttons to OFF, the IR could keep providing erroneous data to other systems.

In order to address all identified failure cases, de-energizing the affected ADIRU must

be done by setting the IR mode rotary selector to OFF. Consequently, this AD, which supersedes AD 2008-0225-E [dated December 18, 2008], requires accomplishment of the updated AFM operational procedure.

The anomalies described above could result in high pilot workload, deviation from the intended flight path, and possible loss of control of the airplane.

Actions and Compliance

(f) Unless already done: Within 14 days after the effective date of this AD, revise the applicable section of the A330 or A340 (Airbus) Flight Manual (FM) by inserting a copy of A330 (Airbus) Temporary Revision (TR) 4.02.00/46, or A340 (Airbus) TR 4.02.00/54, both Issue 3, both dated January 13, 2009, as applicable. Thereafter, operate the airplane according to the limitations and procedures in the TRs. When information identical to that in the TR has been included in the general revisions of the FM, the general revisions may be inserted in the FM, and the TR may be removed.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1138; 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 Emergency Airworthiness Directive 2009-0012-E, dated January 15, 2009; A330 (Airbus) TR 4.02.00/46, Issue 3, dated January 13, 2009; and A340 (Airbus)

TR 4.02.00/54, Issue 3, dated January 13, 2009; for related information.

Material Incorporated by Reference

(i) You must use A330 (Airbus) Temporary Revision 4.02.00/46, Issue 3, dated January 13, 2009, to the A330 (Airbus) Flight Manual; or A340 (Airbus) Temporary Revision 4.02.00/54, Issue 3, dated January 13, 2009, to the A340 (Airbus) Flight Manual; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; fax +33 5 61 93 45 80; e-mail airworthiness.A330-A340@airbus.com; Internet <http://www.airbus.com>.

(3) You may review copies of the service information that is incorporated by reference 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 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 January 23, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3020 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0118; Directorate Identifier 2008-CE-073-AD; Amendment 39-15810; AD 2009-04-04]

RIN 2120-AA64

Airworthiness Directives; Cessna Aircraft Company Models 401, 401A, 401B, 402, 402A, and 402B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Models 401, 401A, 401B, 402, 402A, and 402B airplanes. This AD requires an inspection of the auxiliary wing spar

near the location where the main landing gear trunnion is mounted for cracks; immediate replacement if cracks of 0.5 inch or more are found; repetitive inspections with replacement at a later time as long as cracks of less than 0.5 inch are found; and a report to the FAA and Cessna if any cracks are found. This AD results from several reports of fatigue cracking on the affected airplanes in the auxiliary wing spar. We are issuing this AD to detect and correct such cracks, which, if not corrected, could result in failure of the wing auxiliary spar web and cause landing gear collapse during normal landing. This could lead to loss of control and passenger injury.

DATES: This AD becomes effective on March 2, 2009.

On March 2, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

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

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of

Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this AD, contact Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277; telephone: (800) 423-7762 or (316) 517-6056; Internet: <http://www.cessna.com>.

To view the comments to this AD, go to <http://www.regulations.gov>. The docket number is FAA-2009-0118; Directorate Identifier 2008-CE-073-AD.

FOR FURTHER INFORMATION CONTACT: Adam Neubauer, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946-4156; fax: (316) 946-4107.

SUPPLEMENTARY INFORMATION:

Discussion

We have received several reports of fatigue cracking on Cessna Models 402A and 402B airplanes in the area of the auxiliary wing spar where the main landing gear trunnion is mounted. Other models with similar design that share

the same risk of auxiliary wing spar cracking include Cessna Models 401, 401A, 401B, and 402.

This condition, if not corrected, could result in failure of the wing auxiliary spar web and cause landing gear collapse during normal landing. This could lead to loss of control and passenger injury.

Cessna has shown the FAA that parts with cracks in this area that are 0.5 inch or more need immediate replacement as they pose an immediate safety of flight issue. Cessna's analysis also shows that residual strength in the wing, up to ultimate design loads, will remain with cracks less than 0.5 inch, and the growth of these cracks is slow.

Because analysis shows that a repetitive inspection program can provide an interim acceptable level of safety, the FAA will allow repetitive inspections when a crack less than 0.5 inch is found in the wing auxiliary spar during the initial inspection required by this action. Cracks need to be monitored (inspected every 50 hours time-in-service (TIS)) to show they do not reach 0.5 inch.

- If any crack reaches 0.5 inch or more, then the cracked part must be replaced before further flight.
- If no crack reaches 0.5 inch or more, then the cracked part must be replaced within 200 hours TIS or 12 months, whichever occurs first, regardless of crack growth.

Relevant Service Information

We reviewed Cessna Service Bulletin MEB08-8, dated December 23, 2008. The service information describes procedures for inspecting the wing auxiliary spar webs for cracks and replacing the left web/right web with a new left web/right web.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD requires:

- An inspection of the auxiliary wing spar near the location where the main landing gear trunnion is mounted for cracks;
- Immediate replacement if cracks are 0.5 inch or more;
- Repetitive inspections (50 hours TIS) with replacement at 200 hours TIS or 12 months, whichever occurs first, if cracks are found that are less than 0.5 inch; and
- A report to the FAA and Cessna if any cracks are found.

The FAA considers this interim action. We will work with Cessna and evaluate the crack reports and all other information. Based on this information, we may initiate additional rulemaking action.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracks in the wing auxiliary spar web could lead to failure in this area and could cause landing gear collapse during normal landing. This could lead to loss of control and passenger injury. Some of the affected airplanes are operated 100 hours TIS or more monthly. Therefore, the repetitive inspections on these airplanes would occur in short intervals, and the replacement would be required within 2 months. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number "FAA-2009-0118; Directorate Identifier 2008-CE-073-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–04–04 Cessna Aircraft Company:
Amendment 39–15810; Docket No. FAA–2009–0118; Directorate Identifier 2008–CE–073–AD.

Effective Date

(a) This AD becomes effective on March 2, 2009.

Affected ADs

(b) None.

Applicability

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

Models	Serial Nos.
401	655 and 401–0001 through 401–0322.
401A	655 and 401A0001 through 401A0132.
401B	401B0001 through 401B0221.
402	402–0001 through 402–0322.
402A	402A0001 through 402A0129.
402B	402B0001 through 402B0122, 402B0201 through 402B0249, 402B0301 through 402B0455, 402B0501 through 402B0640, 402B0801 through 402B0935, 402B1001 through 402B1100, 402B1201 through 402B1250, and 402B1301 through 402B1384.

Unsafe Condition

(d) This AD is the result of several reports of fatigue cracking on the affected airplanes in the auxiliary wing spar. We are issuing this AD to detect and correct such cracks, which, if not corrected, could result in failure of the wing auxiliary spar web and cause landing gear collapse during normal landing. This could lead to loss of control and passenger injury.

Compliance

(e) To address this problem, you must do the actions below using Cessna Service Bulletin MEB08–8, dated December 23, 2008, at the following compliance time, unless already done:

Note 1: Cessna Service Bulletin MEB08–8, dated December 23, 2008, provides detailed instructions on measuring, inspecting, and replacing cracked parts, including how to handle two or more cracks in the same hole.

(1) Within the next 10 hours time-in-service (TIS) after March 2, 2009 (the effective date of this AD) and, in addition, before further flight anytime the airplane experiences a “hard landing,” visually inspect the auxiliary wing spar near the location where the main landing gear trunnion is mounted for cracks.

(2) If any crack is found during any inspection required by this AD that is 0.5 inch or more, before further flight after any such crack is found, replace the cracked parts.

(3) If cracks are found during any inspection required by this AD that are less than 0.5 inch, do the following:

(i) Repetitively thereafter inspect the cracks for length at intervals not to exceed 50 hours TIS and, before further flight, replace any part that has a crack length of 0.5 inch or more; and

(ii) Replace the cracked part within 200 hours TIS after the original crack was found or within 12 months after the original crack was found, whichever occurs first.

(4) If you find any cracks as a result of any inspection required by this AD, report the results to Cessna using the form in the service bulletin. Send a copy of this report

to the FAA at the address specified in paragraph (f) of this AD. For the 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. Do the reporting requirement at whichever of the following that occurs later:

- (i) Within 10 days after the inspection; or
- (ii) Within the next 10 days after March 2, 2009 (the effective date of this AD).

Note 2: The FAA considers this interim action. We will work with Cessna and evaluate the crack reports and all other information. Based on this information, we may initiate additional rulemaking action.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Adam Neubauer, Wichita ACO, Aerospace Engineer, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4156; fax: (316) 946–4107. 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.

Material Incorporated by Reference

(g) You must use Cessna Service Bulletin MEB08–8, dated December 23, 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 Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277; telephone: (800) 423–7762 or (316) 517–6056; Internet: <http://www.cessna.com>.

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

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

Issued in Kansas City, Missouri, on February 6, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–3016 Filed 2–17–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0054; Directorate Identifier 2008–NM–222–AD; Amendment 39–15802; AD 2009–03–01]

RIN 2120–AA64

Airworthiness Directives; Learjet Model 55, 55B, and 55C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Learjet Model 55, 55B, and 55C airplanes. This AD requires inspecting the installation of the forward light

assembly in the aft lavatory to determine the location of the terminal connector; inspecting for damage of the light assembly terminals, wires, and oxygen lines; inspecting to determine if the cable nipple is installed over the light assembly terminal; and doing corrective actions if necessary. This AD also requires installing a clamp to the forward side of the frame to maintain a positive distance between the light assembly and oxygen line. This AD results from a report of a cabin fire in the left-hand upper cabin fuselage above the aft cabin window at frame 23. We are issuing this AD to detect and correct improper installation of the lavatory light assembly, which could result in contact between the electrical terminals of the light assembly and an adjacent oxygen supply line, and consequent short circuit or fire hazard.

DATES: This AD is effective March 5, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 5, 2009.

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

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209-2942; telephone 316-946-2000; fax 316-946-2220; e-mail ac.ict@aero.bombardier.com; Internet <http://www.bombardier.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 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: Daniel Hilton, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE-119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4173; fax (316) 946-4107.

SUPPLEMENTARY INFORMATION:

Discussion

We received a report of a cabin fire in the left-hand upper cabin fuselage above the aft cabin window at frame 23 on a Learjet Model 55 airplane. If installed incorrectly, the power lead terminals of the lavatory light assembly have the potential to chafe against the oxygen line, causing deterioration of the insulation on the light assembly wiring. This condition, if not corrected, could result in contact between the electrical terminals of the light assembly and an adjacent oxygen supply line, and consequent short circuit or fire hazard.

Relevant Service Information

We reviewed Bombardier Alert Service Bulletin A55-25-7, dated December 17, 2008. The alert service bulletin describes procedures for an inspection of the installation of the forward light assembly in the aft lavatory to determine the location of the terminal connector (as shown in Figure 1, detail A of the alert service bulletin); an inspection for damage of the light assembly terminals, wires, and oxygen line; an inspection to determine if the cable nipple is installed over the light assembly terminal; and corrective actions if necessary. The corrective actions include turning the light assembly to locate the terminal connector in the forward position; replacing damaged light assembly terminals, wires, and oxygen line; and installing a new cable nipple. The alert service bulletin also describes procedures for installing a clamp to the forward side of the frame to maintain a positive distance between the light assembly and oxygen line.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the 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 AD requires accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the AD and the Service Information."

Differences Between the AD and the Service Information

Operators should note that, although the Accomplishment Instructions of the Bombardier Alert Service Bulletin A55-25-7, dated December 17, 2008, describes procedures for submitting information to the manufacturer, this AD does not require that action.

Bombardier Alert Service Bulletin A55-25-7, dated December 17, 2008, refers only to doing "inspections." We have determined that the procedures in the alert service bulletin should be described as "general visual inspections." Note 1 has been included in this AD to define this type of inspection.

FAA's Justification and Determination of the Effective Date

This condition has the potential to compromise the integrity of the oxygen line due to the chafing between the light assembly terminals and oxygen line and has the potential to become an oxygen-fueled ignition source. Because of our requirement to promote safe flight of civil aircraft and thus the critical need to ensure the risk of fire is mitigated by proper installation of the forward light assembly in the aft lavatory and proper positive distance maintained between the oxygen line and light assembly, and the short compliance time involved with this action, this AD must be issued immediately.

Because an unsafe condition exists that requires the immediate adoption of this AD, we find that notice and opportunity for prior public comment hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0054; Directorate Identifier 2008-NM-222-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any

personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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:

2009-03-01 Learjet: Amendment 39-15802. Docket No. FAA-2009-0054; Directorate Identifier 2008-NM-222-AD.

Effective Date

(a) This airworthiness directive (AD) is effective March 5, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Learjet Model 55, 55B, and 55C airplanes, certificated in any category; serial numbers 002 through 147 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 25: Equipment/Furnishings.

Unsafe Condition

(e) This AD results from a report of a cabin fire in the left-hand upper cabin fuselage above the aft cabin window at frame 23. We are issuing this AD to detect and correct improper installation of the lavatory light assembly, which could result in contact between the electrical terminals of the light assembly and an adjacent oxygen supply line, and consequent short circuit or fire hazard.

Compliance

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

Inspections, Corrective Actions, and Installation

(g) Within 30 days or 25 flight hours after the effective date of this AD, whichever occurs first, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD. Do the actions in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A55-25-7, dated December 17, 2008.

(1) Do a general visual inspection of the installation of the forward light assembly in the aft lavatory to determine the location of the terminal connector; do a general visual inspection for damage of the light assembly terminals, wires, and oxygen lines; do a general visual inspection to determine if the cable nipple is installed over the light assembly terminal; and do all applicable corrective actions. Do all applicable corrective actions before further flight.

Note 1: For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching

distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(2) Install a clamp and hardware to the forward side of the frame to maintain the distance specified in Bombardier Alert Service Bulletin A55-25-7, dated December 17, 2008, between the light assembly and oxygen line.

No Reporting

(h) Although Bombardier Alert Service Bulletin A55-25-7, dated December 17, 2008, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Wichita Aircraft Certification Office, 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: Daniel Hilton, Aerospace Engineer, Electrical Systems and Avionics Branch, ACE-119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4173; fax (316) 946-4107.

(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 (FSDO). The AMOC approval letter must specifically reference this AD.

Material Incorporated by Reference

(j) You must use Bombardier Alert Service Bulletin A55-25-7, dated December 17, 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209-2942; telephone 316-946-2000; fax 316-946-2220; e-mail ac.ict@aero.bombardier.com; Internet <http://www.bombardier.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 January 21, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. E9-3023 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2008-1105; Airspace
Docket No. 08-AGL-10]

Amendment of Class E Airspace; Atlantic, IA

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Atlantic, IA. Additional controlled airspace is necessary to accommodate Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Atlantic Municipal Airport, Atlantic, IA. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at Atlantic Municipal Airport.

DATES: *Effective Date:* 0901 UTC, May 7, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On December 8, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Atlantic, IA, adding additional controlled airspace at Atlantic Municipal Airport, Atlantic, IA. (73 FR 74376, Docket No. FAA-2008-1105). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph

6005 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace at Atlantic, IA, adding additional controlled airspace at Atlantic Municipal Airport, Atlantic, IA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds additional controlled airspace at Atlantic Municipal Airport, Atlantic, IA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

ACE IA E5 Atlantic, IA [Amended]

Atlantic Municipal Airport, IA
(Lat. 41°24'26" N., long. 95°02'49" W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Atlantic Municipal Airport and within 3.4 miles each side of the 022° bearing from the airport extending from the 6.8-mile radius to 9.9 miles northeast of the airport.

* * * * *

Issued in Fort Worth, TX, on February 5, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO
Central Service Center.

[FR Doc. E9-3007 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2008-0987; Airspace
Docket No. 08-ASW-19]

Amendment of Class E Airspace; Corpus Christi, TX

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Corpus Christi, TX. Controlled airspace is necessary to accommodate Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Mustang Beach Airport, Port Aransas, TX; and T.P. McCampbell Airport, Ingleside, TX. Also, Class E airspace around Aransas County Airport, Rockport, TX, and San Jose Island Airport, Rockport, TX, will

be incorporated into the Corpus Christi, TX, area Class E airspace. The Rockport, TX, designation is being removed under a separate rulemaking. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations in and around the Corpus Christi, TX, airspace area.

DATES: *Effective Date:* 0901 UTC, May 7, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On November 26, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Corpus Christi, TX, adding controlled airspace at Mustang Beach Airport, Port Aransas, TX; and T.P. McCampbell Airport, Ingleside, TX, and incorporating the Rockport, TX, airspace area into Corpus Christi Class E airspace (73 FR 71965, Docket No. FAA-2008-0987). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace at Corpus Christi, TX, adding controlled airspace at Mustang Beach Airport, Port Aransas, TX; and T.P. McCampbell Airport, Ingleside, TX, and incorporating the Class E airspace at Aransas County Airport, and San Jose Island Airport, both in Rockport, TX, into the Corpus Christi Class E airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) is not a "significant regulatory action"

under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds controlled airspace in the Corpus Christi, TX airspace area, at Mustang Beach Airport, Port Aransas, TX; T.P. McCampbell Airport, Ingleside, TX; Aransas County Airport and San Jose Island Airport, Rockport, TX.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface.

* * * * *

ASW TX E5 Corpus Christi, TX [Amended]

Corpus Christi International Airport, TX (Lat. 27°46'13" N., long. 97°30'04" W.)
 Corpus Christi NAS/Truax Field, TX (Lat. 27°41'34" N., long. 97°17'25" W.)
 Port Aransas, Mustang Beach Airport, TX (Lat. 27°48'43" N., long. 97°05'20" W.)
 Rockport, San Jose Island Airport, TX (Lat. 27°56'40" N., long. 96°59'06" W.)
 Rockport, Aransas County Airport, TX (Lat. 28°05'12" N., long. 97°02'41" W.)
 Ingleside, T.P. McCampbell Airport, TX (Lat. 27°54'47" N., long. 97°12'41" W.)
 Robstown, Nueces County Airport, TX (Lat. 27°46'43" N., long. 97°41'26" W.)
 Corpus Christi VORTAC, TX (Lat. 27°54'14" N., long. 97°26'42" W.)

That airspace extending upward from 700 feet above the surface within a 7.5 mile radius of Corpus Christi International Airport and within 1.4 miles each side of the 200° radial of the Corpus Christi VORTAC extending from the 7.5 mile radius to 8.5 miles north of the airport, and within 1.5 miles each side of the 316° bearing from the airport extending from the 7.5 mile radius to 10.1 miles northwest of the airport, and within an 8.8-mile radius of Corpus Christi NAS/Truax Field, and within a 6.3-mile radius of Mustang Beach Airport, and within a 6.4-mile radius of T.P. McCampbell Airport, and within a 6.3-mile radius of Nueces County Airport, and within a 7.6-mile radius of Aransas County Airport, and within a 6.5-mile radius of San Jose Island Airport, and within 8 miles west and 4 miles east of the 327° bearing from the San Jose Island Airport extending from the airport to 20 miles northwest of the airport, and within 8 miles east and 4 miles west of the 147° bearing from the airport extending from the airport to 16 miles southeast of the airport, excluding that portion more than 12 miles from and parallel to the shoreline.

* * * * *

Issued in Fort Worth, TX, on February 2, 2009.

Anthony D. Roetzel,

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

[FR Doc. E9-2994 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2008-1231; Airspace Docket No. 08-ASW-25]

Amendment of Class E Airspace; Tulsa, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Tulsa, OK. Additional controlled airspace is necessary to accommodate Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at William R. Pogue Municipal Airport, Sand Springs, OK. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at William R. Pogue Municipal Airport.

DATES: *Effective Date:* 0901 UTC, May 7, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On December 16, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Tulsa, OK, adding additional controlled airspace at William R. Pogue Municipal Airport, Sand Springs, OK (73 FR 76293, Docket No. FAA-2008-1231). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace at Tulsa, OK, adding additional controlled airspace at William R. Pogue Municipal Airport, Sand Springs, OK.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds additional controlled airspace in the Tulsa, OK airspace area, at William R. Pogue Municipal Airport, Sand Springs, OK.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface.

* * * * *

ASW OK E5 Tulsa, OK [Amended]

Tulsa International Airport, OK
(Lat. 36°11'54" N., long. 95°53'17" W.)
Tulsa, Richard Lloyd Jones Jr. Airport, OK
(Lat. 36°02'23" N., long. 95°59'05" W.)

Sand Springs, William R. Pogue Municipal Airport, OK
(Lat. 35°10'31" N., long. 96°09'07" W.)
Tulsa VORTAC
(Lat. 36°11'47" N., long. 95°47'17" W.)
Glenpool VOR/DME
(Lat. 35°55'15" N., long. 95°58'07" W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Tulsa International Airport and within 1.6 miles each side of the 089° radial of the Tulsa VORTAC extending from the 8-mile radius to 11.9 miles east of the airport and within a 6.4-mile radius of Richard Lloyd Jones Jr. Airport, and within a 7.2-mile radius of William R. Pogue Municipal Airport and within 4 miles each side of the 355° bearing from William R. Pogue Municipal Airport extending from the 7.2-mile radius to 10.9 miles north of the airport, and within 4 miles each side of the 175° bearing from William R. Pogue Municipal Airport extending from the 7.2-mile radius to 10.9 miles south of the airport and within 4.1 miles each side of the 330° radial of the Glenpool VOR/DME extending from the 7.2-mile radius of William R. Pogue Municipal Airport to 8.3 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX, on February 5, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9-3006 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2008-0957; Airspace Docket No. 08-AAL-27]

Revision of Class E Airspace; Galena, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Galena, AK to provide adequate controlled airspace to contain aircraft executing Standard Instrument Approach Procedures (SIAPs). Two SIAPs are being amended for the Edward G. Pitka Airport at Galena, AK. This action revises existing Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Edward G. Pitka Airport, Galena, AK.

DATES: *Effective Date:* 0901 UTC, May 7, 2009. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order

7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL-538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-5898; fax: (907) 271-2850; e-mail:

gary.ctr.rolf@faa.gov. Internet address: http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.

SUPPLEMENTARY INFORMATION:

History

On Friday, November 7, 2008, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface and from 1,200 ft. above the surface at Galena, AK (73 FR 66207). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing amended instrument procedures for the Edward G. Pitka Airport. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Edward G. Pitka Airport area is revised by this action.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed with the following exceptions. The airport's location coordinates have been corrected, and the navigation aid used in the airspace description has been changed to a Very High Frequency Omni-directional Range/Distance Measuring Equipment (VOR/DME).

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9S, *Airspace Designations and Reporting Points*, signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Edward G. Pitka Airport, at Galena, Alaska. This Class E airspace is revised to accommodate aircraft executing amended instrument procedures, and will be depicted on aeronautical charts

for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at the Edward G. Pitka Airport, Galena, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Because this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Edward G. Pitka Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Galena, AK [Revised]

Galena, Galena International Airport, AK (Lat. 64°44'10" N., long. 156°56'15" W.)
Galena VOR/DME (Lat. 64°44'17" N., long. 156°46'38" W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Edward G. Pitka Airport, AK, and within 14 miles of the Galena VOR/DME, AK, extending clockwise from the 088° radial to the 163° radial of the Galena VOR/DME, AK, and within 22 miles of the Galena VOR/DME, AK, extending from the 268° radial to the 315° radial of the Galena VOR/DME, AK, and within 4 miles north of the 088° radial of the Galena VOR/DME, AK, extending from the 6.7-mile radius of the Edward G. Pitka Airport to 14 miles east of the Galena VOR/DME, AK, and within 4 miles south of the 268° radial of the Galena VOR/DME, AK, extending from the 6.7-mile radius to 22 miles west of the Galena VOR/DME, AK; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Edward G. Pitka Airport, AK.

* * * * *

Issued in Anchorage, AK, on January 14, 2009.

Michael A. Tarr,

Acting Manager, Alaska Flight Services Information Area Group.

[FR Doc. E9-3199 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2008-0988; Airspace Docket No. 08-ASW-20]

Revocation of Class E Airspace; Rockport, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E airspace at Rockport, TX. This airspace has been incorporated into the Corpus Christi, TX, Class E airspace area under

a separate rulemaking action to ensure the safety of aircraft and efficient use of airspace.

DATES: *Effective Date:* 0901 UTC, May 7, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On, November 26, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Corpus Christi, TX (73 FR 71965, Docket No. FAA-2008-0987). This amendment included provisions to incorporate the Rockport, TX, Class E airspace area into the Corpus Christi, TX, Class E airspace area. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designation listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by revoking Class E airspace at Rockport, TX. This airspace has been incorporated into the Corpus Christi, TX, Class E airspace area under a separate rulemaking action.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when

promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it removes controlled airspace at Rockport, TX.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Rockport, TX [Removed]

* * * * *

Issued in Fort Worth, TX, on February 2, 2009.

Anthony D. Roetzel,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9-2977 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2008-0661; Airspace Docket No. 08-AAL-19]

Establishment of Colored Federal Airways; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Colored Federal Airway Blue 7 (B-7), in Alaska. This action adds to the Instrument Flight Rules (IFR) airway and route structure in Alaska by providing IFR connectivity between Cape Newenham, AK, and Bethel, AK. The FAA is taking this action to enhance safety and improve the management of air traffic operations in the State of Alaska.

DATES: *Effective Dates:* 0901 UTC, May 7, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

History

On October 30, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Federal Airway B-7 in Alaska (73 FR 64573). Interested parties were invited to participate in this rulemaking effort by submitting written comments on this proposal. No comments were received in response to the NPRM. Based on further analysis of publication requirements the description of B-7 will be reversed and listed from Cape Newenham to Oscarville instead of from Oscarville to Cape Newenham. With the exception of editorial changes, and the change described above, this amendment is the same as that proposed in the NPRM.

Colored Federal airways are published in paragraph 6009, of FAA Order 7400.9S signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Colored Federal airway listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Colored Federal Airway B-7 between Cape Newenham and Bethel, AK. This action adds to the IFR airway and route structure in Alaska by providing IFR connectivity between Cape Newenham, AK, and Bethel, AK. The FAA is proposing this action to improve the management of air traffic operations in the State of Alaska and to enhance safety.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it will enhance aviation safety in the state of Alaska.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures,"

paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6009(d) Blue Federal Airways.

* * * * *

B-7 [New]

From Cape Newenham, AK, NDB, to the Oscarville, AK, NDB.

* * * * *

Issued in Washington, DC, on February 6, 2009.

Edith V. Parish,

Manager, Airspace and Rules Group.

[FR Doc. E9-3239 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

BROADCASTING BOARD OF GOVERNORS

22 CFR Part 510

Service of Process

AGENCY: Broadcasting Board of Governors

ACTION: Rule.

SUMMARY: The Broadcasting Board of Governors (BBG) is publishing a change

to a regulation governing contact information of the Office of General Counsel of BBG for purposes of service of process. This rule will revise the Office of General Counsels address cited in the current version of our regulations.

DATES: Effective February 18, 2009.

FOR FURTHER INFORMATION CONTACT:

Kataryna L. Baldwin, Assistant General Counsel, Broadcasting Board of Governors, 330 Independence Avenue, SW., Washington, DC 20237, phone: (202) 203-4550 or fax at (202) 203-4585.

SUPPLEMENTARY INFORMATION: The current version of 22 CFR 510.1 lists an incorrect address for the Office of General Counsel of BBG. The correct address is "Office of the General Counsel, Broadcasting Board of Governors, 330 Independence Avenue, SW., Cohen Building, Washington, DC 20237."

List of Subjects in 22 CFR Part 510

Administrative practice and procedure, Courts.

■ For the reasons stated in the preamble, the Broadcasting Board of Governors amends 22 CFR Chapter V, to read as follows:

PART 510—SERVICE OF PROCESS

■ 1. The authority citation for part 510 continues to read as follows:

Authority: 5 U.S.C. 552(a)(1)(A).

■ 2. In § 510.1 revise paragraph (c) to read as follows:

§ 510.1 Service of process.

* * * * *

(c) Process shall be delivered to:

Mailing address: Office of the General Counsel, Broadcasting Board of Governors, 330 Independence Ave., SW., Cohen Building, Washington, DC 20237.

Location: Office of the General Counsel, Broadcasting Board of Governors, 330 Independence Ave., SW., Cohen Building, Room 3349, Washington, DC 20237.

Dated: February 4, 2009.

Marie E. Lennon,

Chief of Staff, International Broadcasting Bureau (IBB).

[FR Doc. E9-3320 Filed 2-17-09; 8:45 am]

BILLING CODE 8610-01-P

Proposed Rules

Federal Register

Vol. 74, No. 31

Wednesday, February 18, 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 AGRICULTURE

Natural Resources Conservation Service

7 CFR Part 625

RIN 0578-AA52

Healthy Forests Reserve Program

AGENCY: Natural Resources Conservation Service (NRCS), United States Department of Agriculture (USDA).

ACTION: Proposed rule; Reopening public comments.

SUMMARY: On January 14, 2009, NRCS published in the **Federal Register** a proposed rule for the Healthy Forests Reserve Program (HFRP) with a public comment period closing on February 13, 2009. The proposed rule included changes to address amendments to HFRP associated with enactment of the Food, Conservation, and Energy Act of 2008. NRCS is hereby reopening the public comment period for the HFRP proposed rule and amending the closing date to March 20, 2009.

DATES: Comments to the HFRP proposed rule, published in the **Federal Register** on January 14, 2009 (74 FR 1954) must be received on or before March 20, 2009.

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

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending comments electronically.

- *NRCS Web site:* Go to <http://www.nrcs.usda.gov> and follow the instructions for sending comments electronically.

- *Mail:* Easements Programs Division, Natural Resources Conservation Service, Healthy Forests Reserve Program Comments, P.O. 2890, Room 6819-S, Washington, DC 20013.

- *Fax:* 1-202-720-4265.

- *Hand Delivery:* Room 6819-S of the USDA South Office Building, 1400 Independence Avenue, SW., Washington, DC 20250, between 9 a.m.

and 4 p.m., Monday through Friday, except Federal holidays. Please ask the guard at the entrance to the South Office Building to call 202-720-4527 in order to be escorted into the building.

- This proposed rule may be accessed via Internet. Users can access the NRCS homepage at <http://www.nrcs.usda.gov/>; select *Farm Bill* link from the menu; select the *Proposed Rule* link from beneath the *Rules Index* title. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT: Director, Easement Programs Division, NRCS, P.O. Box 2890, Washington, DC 20013-2890; Phone: (202) 720-1854; Fax: (202) 720-4265; or e-mail: HFRP@wdc.usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

Signed this 11th day of February 2009, in Washington, DC.

Dave White,

Acting Vice President, Commodity Credit Corporation and Acting Chief, Natural Resources Conservation Service.

[FR Doc. E9-3354 Filed 2-17-09; 8:45 am]

BILLING CODE 3410-16-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-1165; Directorate Identifier 2008-NE-38-AD]

RIN 2120-AA64

Airworthiness Directives; Rolls-Royce plc RB211 Trent 800 Series Turbofan Engines

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)

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

During manufacture of high-pressure (HP) compressor stage 1 discs, a small number of parts have been rejected due to a machining defect that was found during inspection. Analysis of the possibility of less severe examples having been undetected and passed into service has concluded that action is required to reduce the risk of failure. It is therefore necessary to reduce the life limit from that currently published for the applicable parts.

The HP compressor stage 1 disc is part of the HP compressor stage 1-4 shaft, part number (P/N) FK32580. We are proposing this AD to prevent uncontained failure of the HP compressor stage 1 disc, resulting in an in-flight engine shutdown and possible damage to the airplane.

DATES: We must receive comments on this proposed AD by March 20, 2009.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

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

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* (202) 493-2251.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine

& Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: james.lawrence@faa.gov; telephone (781) 238-7176; fax (781) 238-7199.

SUPPLEMENTARY INFORMATION:

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-2008-1165; Directorate Identifier 2008-NE-38-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 with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

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 2008-0099, dated May 21, 2008 (corrected June 12, 2008) (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

During manufacture of HP compressor stage 1 discs, a small number of parts have been rejected due to a machining defect that was found during inspection. Analysis of the possibility of less severe examples having been undetected and passed into service has concluded that action is required to reduce the risk of failure. It is therefore necessary to reduce the life limit from that currently published for the applicable parts.

You may obtain further information by examining the MCAI in the AD docket. This proposed AD would require removing HP compressor stage 1-4 shafts, P/N FK32580, from service at reduced life limits based on part assessment using either "Multiple Flight

Profile Monitoring", or "Heavy Flight Profile" calculations.

Relevant Service Information

Rolls-Royce plc has issued Alert Service Bulletin RB.211-72-AF825, Revision 1, dated September 8, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom, and is approved for operation in the United States. Pursuant to our bilateral agreement with the United Kingdom, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD requires removing HP compressor stage 1-4 shafts, P/N FK32580, from service at reduced life limits based on part assessment using either "Multiple Flight Profile Monitoring", or "Heavy Flight Profile" calculations.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 78 products of U.S. registry. Required parts would cost about \$15,095 per product. We estimate that no additional labor costs would be incurred to perform the proposed actions. We anticipate that the removal from service of the HP compressor stage 1-4 shafts will occur while the engine is inducted into the shop for routine maintenance. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be \$1,177,410. Our cost estimate is exclusive of possible warranty coverage.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations

for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce plc: Docket No. FAA-2008-1165; Directorate Identifier 2008-NE-38-AD.

Comments Due Date

- (a) We must receive comments by March 20, 2009.

Affected Airworthiness Directives (ADs)

- (b) None.

Applicability

- (c) This airworthiness directive (AD) applies to Rolls-Royce plc (RR) models

RB211 Trent 875–17, Trent 877–17, Trent 884–17, Trent 884B–17, Trent 892–17, Trent 892B–17, and Trent 895–17 turbofan engines, with high-pressure (HP) compressor stage 1–4 shafts, part number (P/N) FK32580, installed. These engines are installed on, but not limited to, Boeing 777 series airplanes.

Reason

(d) European Aviation Safety Agency (EASA) AD 2008–0099, dated May 21, 2008 (corrected June 12, 2008) states the unsafe condition is as follows:

During manufacture of high-pressure (HP) compressor stage 1 discs, a small number of parts have been rejected due to a machining defect that was found during inspection. Analysis of the possibility of less severe examples having been undetected and passed into service has concluded that action is required to reduce the risk of failure. It is therefore necessary to reduce the life limit from that currently published for the applicable parts.

The HP compressor stage 1 disc is part of the HP compressor stage 1–4 shaft, P/N FK32580. We are issuing this AD to prevent uncontained failure of the HP compressor stage 1 disc, resulting in an in-flight engine shutdown and possible damage to the airplane.

Actions and Compliance

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

(1) RB211 Trent 800 critical part lives may be monitored by one of two methods: “Multiple Flight Profile Monitoring”, or “Heavy Flight Profile”. Information on these profiles can be found in the RR Engine Manual Airworthiness Limitations Section.

(2) Standard Duty Cycles (SDC) is the product of Flight Cycles and Beta Factor. Information on Flight Cycles and Beta Factor can be found in the RR Engine Manual Airworthiness Limitations Section.

Multiple Flight Profile Monitoring Parts

(3) For RB211 Trent 800 engines being monitored by “Multiple Flight Profile Monitoring,” do the following:

(i) On the effective date of this AD, if the life of HP compressor stage 1–4 shaft, P/N FK32580, is equal to or over 5,580 SDC, then the part must be withdrawn from service before exceeding 7,780 SDC.

(ii) On the effective date of this AD, if the life of HP compressor stage 1–4 shaft, P/N FK32580, is between 3,380 and 5,580 SDC, then the part must be withdrawn from service before exceeding an additional 2,200 SDC.

(iii) On the effective date of this AD, if the life of HP compressor stage 1–4 shaft, P/N FK32580, is equal to or below 3,380 SDC, then the part must be withdrawn from service before exceeding 5,580 SDC.

Reassessment of the Revised Life Limit

(4) Operators should be aware that reassessment of the revised life limit in accordance with this AD (including possible reassessment per the applicable subparagraph (e)(3)(i), (e)(3)(ii), or (e)(3)(iii) of this AD, will be necessary if, at some time in the future, the operator changes the flight

profile that was applicable before the Effective Date of this AD, such that parts which are the subject of this AD are affected. To recalculate the revised life limit, the life of the part in SDC at the Effective Date of this AD, must be recalculated from the part's entry into service (zero life), and must use the Beta Factor(s) for the new Flight Profile(s).

Heavy Flight Profile Parts

(5) For RB211 Trent 800 engines being monitored by “Heavy Flight Profile,” do the following:

(i) On the effective date of this AD, if the life of HP compressor stage 1–4 shaft, P/N FK32580, is equal to or over 5,280 flight cycles, then the part must be withdrawn from service before exceeding 7,480 flight cycles.

(ii) On the effective date of this AD, if the life of HP compressor stage 1–4 shaft, P/N FK32580, is between 3,080 flight cycles and 5,280 flight cycles, then the part must be withdrawn from service before exceeding an additional 2,200 flight cycles.

(iii) On the effective date of this AD, if the life of HP compressor stage 1–4 shaft, P/N FK32580, is equal to or below 3,080 flight cycles, then the part must be withdrawn from service before exceeding 5,280 flight cycles.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(g) Refer to EASA Airworthiness Directive 2008–0099, dated May 21, 2008 (corrected June 12, 2008), and Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AF825, Revision 1, dated September 8, 2008, for related information. Contact Rolls-Royce plc, PO Box 31, Derby, England, DE248BJ; telephone: 011–44–1332–242424; fax: 011–44–1332–245418, for a copy of this service information.

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

Issued in Burlington, Massachusetts, on February 10, 2009.

Peter A. White,

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

[FR Doc. E9–3358 Filed 2–17–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0133; Directorate Identifier 2008–NM–107–AD]

RIN 2120–AA64

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

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ airplanes. The existing AD currently requires repetitive inspections for corrosion of frames 15, 18, 41, and 43 and applicable related investigative and corrective actions. The existing AD also provides an optional action that would extend the repetitive inspection interval. This proposed AD would add a high frequency eddy current inspection for corrosion of the outer frame flanges and door hinge bosses of frames 15, 18, 41, and 43. This proposed AD results from a report indicating that corrosion has been detected in the outer frame flanges and door hinge bosses during scheduled maintenance. We are proposing this AD to prevent reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by March 20, 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 proposed AD, contact BAE Systems Regional Aircraft, 13850 McLearn 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 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: 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-2009-0133; Directorate Identifier 2008-NM-107-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

On May 31, 2006, we issued AD 2006-12-09, amendment 39-14634 (71 FR 33602, June 12, 2006), for certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ airplanes. That AD requires repetitive inspections for corrosion of frames 15, 18, 41, and 43 and applicable related investigative and corrective actions. That AD also provides an optional action that would extend the repetitive inspection interval. That AD resulted from a report indicating that in some cases the inspections required by an existing AD revealed no damage, yet frame corrosion and cracking were later found during scheduled maintenance in the two forward fuselage frames 15 and 18. We issued that AD to prevent reduced structural integrity of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 2006-12-09, we have received a report indicating that corrosion has been detected in the outer frame flanges and door hinge bosses during scheduled maintenance.

Relevant Service Information

BAE Systems (Operations) Limited has issued Inspection Service Bulletin ISB.53-182, Revision 1, dated August 6, 2007. We referred to BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005, as the appropriate source of service information for accomplishing the required actions of AD 2006-12-09. The procedures in Revision 1 are essentially the same as the original issue of the service bulletin, except Revision 1 of the service bulletin adds procedures for doing a high frequency eddy current (HFEC) inspection for corrosion of the outer frame flanges and door hinge bosses of frames 15, 18, 41, and 43. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The European Aviation Safety Agency mandated the service information and issued airworthiness directive 2008-0092 R1, dated May 15, 2008 (referred to after this as "the MCAI"), to ensure the continued

airworthiness of these airplanes in the European Union. The compliance times for the new actions are the same as for the existing actions.

FAA's Determination and Requirements of the 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.

This proposed AD would supersede AD 2006-12-09 and would retain the requirements of the existing AD. This proposed AD would also require accomplishing the additional inspection specified in the service bulletin described previously.

Change to Existing AD

This proposed AD would retain all requirements of AD 2006-12-09. Since AD 2006-12-09 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2006-12-09	Corresponding requirement in this proposed AD
Paragraph (f)	Paragraph (g).
Paragraph (g)	Paragraph (h).
Paragraph (h)	Paragraph (i).
Paragraph (i)	Paragraph (p).
Paragraph (j)	Paragraph (j).

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
HFEC inspection, per inspection cycle (required by AD 2006-12-09)	5	\$80	\$400	1	\$400
Detailed Inspection, per inspection cycle (required by AD 2006-12-09)	3	80	240	1	240

ESTIMATED COSTS—Continued

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
HFEC inspection, per inspection cycle (new proposed action)	5	80	400	1	400

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed 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. 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.

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 Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39-14634 (71 FR 33602, June 12, 2006) and adding the following new airworthiness directive (AD):

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA-2009-0133; Directorate Identifier 2008-NM-107-AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by March 20, 2009.

Affected ADs

(b) This AD supersedes AD 2006-12-09.

Applicability

(c) This AD applies to all BAE Systems (Operations) Limited Model BAe 146-100A, -200A, and -300A series airplanes; and Model Avro 146-RJ70A, 146-RJ85A, and 146-RJ100A airplanes; certificated in any category.

Subject

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

Unsafe Condition

(e) This AD results from a report indicating that corrosion has been detected in the outer frame flanges and door hinge bosses during scheduled maintenance. We are issuing this AD to prevent reduced structural integrity of the airplane.

Compliance

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

Restatement of Requirements of AD 2006-12-09**Repetitive Inspections**

(g) Use high-frequency eddy current (HFEC) and detailed methods to inspect for

signs of corrosion (including cracks, blistering, or flaking paint) of frames 15, 18, 41, and 43, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005, except as required by paragraph (k) of this AD. Inspect at the applicable time specified in 1.D. "Compliance" of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005. Application of corrosion-preventive treatment, in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005; or Revision 1, dated August 6, 2007; extends the repetitive inspection interval, as specified in Table 2 in 1.D. "Compliance" of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005.

Note 1: For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate. Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

Corrective Action

(h) If any discrepancy is found during any inspection required by paragraph (g) of this AD: Before further flight, perform applicable related investigative/corrective actions in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005, except as required by paragraphs (i) and (k) of this AD.

Exceptions to Service Bulletin Specifications

(i) If BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005, specifies to contact the manufacturer for appropriate action, before further flight, repair per a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (or its delegated agent); or European Aviation Safety Agency (EASA) (or its delegated agent).

(j) Where BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005, specifies a compliance time after the issuance of the service bulletin, this AD requires compliance within the specified compliance time after July 17, 2006 (the effective date of AD 2006-12-09). Where BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005, specifies a

compliance time "since date of construction" of the airplane, this AD requires compliance since the date of issuance of the original standard airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

New Requirements of This AD

New Service Bulletin

(k) As of the effective date of this AD: Do the actions required by paragraphs (g) and (h) of this AD in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, Revision 1, dated August 6, 2007, except as required by paragraph (n) of this AD.

Additional Inspection Areas

(l) At the applicable compliance time specified in paragraph (g) of this AD, except as provided by paragraph (o) of this AD; or within six months after the effective date of this AD; whichever occurs later: Do an HFEC inspection for corrosion of the outer frame flanges and door hinge bosses of frames 15, 18, 41, and 43, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, Revision 1, dated August 6, 2007 ("the service bulletin"). Repeat the inspection thereafter at the applicable time specified in paragraph 1.D., "Compliance," of the service bulletin. Application of corrosion-preventive treatment, in accordance with the Accomplishment Instructions of the service bulletin, extends the repetitive inspection interval, as specified in Table 2 in paragraph 1.D., "Compliance," of the service bulletin.

Corrective Action for Additional Inspection

(m) If any discrepancy is found during any inspection required by paragraph (l) of this AD: Before further flight, perform applicable related investigative/corrective actions in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, Revision 1, dated August 6, 2007, except as required by paragraph (n) of this AD.

Exception to BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, Revision 1

(n) If BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, Revision 1, dated August 6, 2007, specifies to contact the manufacturer for appropriate action, before further flight, repair per a method approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA; or EASA (or its delegated agent).

(o) Where BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, Revision 1, dated August 6, 2007, specifies a compliance time after the issuance of the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD. Where BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, Revision 1, dated August 6, 2007, specifies a compliance time "since date of construction" of the airplane, this AD requires compliance

since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

No Reporting

(p) Although BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-182, dated March 16, 2005; and Revision 1, dated August 6, 2007; specify to submit information to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance (AMOCs)

(q) The Manager, International Branch, ANM-116, 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. The AMOC approval letter must specifically reference this AD.

Related Information

(r) European Aviation Safety Agency airworthiness directive 2008-0092 R1, dated May 15, 2008, also addresses the subject of this AD.

Issued in Renton, Washington, on February 5, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3400 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0134; Directorate Identifier 2008-NM-162-AD]

RIN 2120-AA64

Airworthiness Directives; Saab AB, Saab Aerofsystems Model SAAB 340A (SAAB/SF340A) and SAAB 340B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new Airworthiness Directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of

another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Two cases of main hydraulic accumulator failure have been reported, one of which was caused by corrosion. Investigation has shown that a severe failure can occur to any of the four hydraulic accumulators which are installed in the hydraulic compartment. Either one of the two end parts on the accumulator may depart from the pressure vessel due to corrosion. This condition, if not corrected, is likely to degrade the functionality of the hydraulic system, possibly resulting in degradation or total loss of control of the landing gear, flap actuation and brakes. A severe failure during flight may even result in debris penetrating and exiting the fuselage outer skin. When such a failure occurs while the aircraft is on the ground, as in the two reported cases, this may cause severe damage to the fuselage and result in injuries to persons nearby.

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

DATES: We must receive comments on this proposed AD by March 20, 2009.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of

Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Saab Aircraft AB, SAAB Aerofsystems, SE-581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; e-mail saab2000.techsupport@saabgroup.com; Internet <http://www.saabgroup.com>.

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

Examining the AD Docket

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

regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1112; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0134; Directorate Identifier 2008-NM-162-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 2008-0146, dated August 1, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

Two cases of main hydraulic accumulator failure have been reported, one of which was caused by corrosion. Investigation has shown that a severe failure can occur to any of the four hydraulic accumulators which are installed in the hydraulic compartment. Either one of the two end parts on the accumulator may depart from the pressure vessel due to corrosion. This condition, if not corrected, is likely to degrade the functionality of the hydraulic system, possibly resulting in degradation or total loss of control of the landing gear, flap actuation and brakes. A severe failure during flight may even result in debris penetrating and exiting the fuselage outer skin. When such a failure occurs while the aircraft is on the ground, as in the two reported cases, this may cause severe damage to the fuselage and result in injuries to persons nearby.

To address and correct the unsafe condition, a modified hydraulic accumulator

has been developed, which is sealed between the barrel and the screw cap and between the screw cap and the end cap.

For the reasons described above, this EASA AD requires the replacement of the affected hydraulic accumulators P/N (part number) 08 8423 001 1 and P/N 08 8423 030 1, as identified in Saab SB 340-29-023, with a modified hydraulic accumulator.

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

Relevant Service Information

Saab has issued Service Bulletin 340-29-023, dated June 10, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect 141 products of U.S. registry. We also estimate that it would take 8 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 \$3,582 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 \$595,302, or \$4,222 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:

Saab AB, Saab Aerosystems: Docket No. FAA-2009-0134; Directorate Identifier 2008-NM-162-AD.

Comments Due Date

(a) We must receive comments by March 20, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Saab AB, Saab Aerosystems Model SAAB 340A (SAAB/SF340A) and SAAB 340B airplanes, all serial numbers, certificated in any category; on which hydraulic accumulators with part number (P/N) 08 8423 001 1 or P/N 08 8423 030 1 are installed, except accumulators with serial numbers listed in paragraph 3.B. of Saab Service Bulletin 340-29-023, dated June 10, 2008.

Subject

(d) Air Transport Association (ATA) of America Code 29: Hydraulic power.

Reason

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

Two cases of main hydraulic accumulator failure have been reported, one of which was caused by corrosion. Investigation has shown that a severe failure can occur to any of the four hydraulic accumulators which are installed in the hydraulic compartment. Either one of the two end parts on the accumulator may depart from the pressure vessel due to corrosion. This condition, if not corrected, is likely to degrade the functionality of the hydraulic system, possibly resulting in degradation or total loss of control of the landing gear, flap actuation and brakes. A severe failure during flight may even result in debris penetrating and exiting the fuselage outer skin. When such a failure occurs while the aircraft is on the ground, as in the two reported cases, this may cause severe damage to the fuselage and result in injuries to persons nearby.

To address and correct the unsafe condition, a modified hydraulic accumulator has been developed, which is sealed between the barrel and the screw cap and between the screw cap and the end cap.

For the reasons described above, [the MCAI] requires the replacement of the affected hydraulic accumulators P/N (part number) 08 8423 001 1 and P/N 08 8423 030 1, as identified in Saab SB 340-29-023, with a modified hydraulic accumulator.

Actions and Compliance

(f) Unless already done, replace the accumulator at the applicable time specified in paragraph (f)(1) or (f)(2) of this AD in accordance with the instructions of Saab Service Bulletin 340-29-023, dated June 10, 2008.

(1) For airplanes on which the manufacturing date of the hydraulic accumulator is June 2000 or earlier: Replace the accumulator with a new or modified accumulator within 24 months after the effective date of this AD.

(2) For airplanes on which the manufacturing date of the accumulator is July 2000 or later: Replace the accumulator with a new or modified accumulator within 10 years after the manufacturing date or within 24 months after the effective date of this AD, whichever occurs later.

(3) As of 24 months after the effective date of this AD, no person may install a hydraulic accumulator, P/N 08 8423 001 1 or P/N 08 8423 030 1 on any airplane, except accumulators with serial numbers listed in paragraph 3.B. of Saab Service Bulletin 340-29-023, dated June 10, 2008.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM-116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1112; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your 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 Airworthiness Directive 2008-0146, dated August 1, 2008, and Saab Service

Bulletin 340-29-023, dated June 10, 2008, for related information.

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

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3398 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0132; Directorate Identifier 2008-NM-081-AD]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135BJ, -135ER, -135KE, -135KL, -135LR, -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP 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 aircraft full scale fatigue test, it has been found the occurrence of cracks in the cockpit windshield post lower eyelet fitting at the attachment of the center post on the forward fuselage (SSI 53-10-19). Further analysis of this cracking resulted in modifications on the aircraft Airworthiness Limitation Items (ALI), to include new inspection tasks and its respective intervals. Undetected fatigue cracking in this area could adversely affect the structural integrity of these airplanes.

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

DATES: We must receive comments on this proposed AD by March 20, 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: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1405; 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-2009-0132; Directorate Identifier 2008-NM-081-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 2007-07-02, effective August 21, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

During aircraft full scale fatigue test, it has been found the occurrence of cracks in the cockpit windshield post lower eyelet fitting at the attachment of the center post on the forward fuselage (SSI 53-10-19). Further analysis of this cracking resulted in modifications on the aircraft Airworthiness Limitation Items (ALI), to include new inspection tasks and its respective intervals. Undetected fatigue cracking in this area could adversely affect the structural integrity of these airplanes.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new structural inspection requirements. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EMBRAER has issued the following documents:

- The EMB135/ERJ140/EMB145 Maintenance Review Board Report (MRBR) MRB-145/1150, Revision 11, dated September 19, 2007, which includes Appendix 2, "Airworthiness Limitation Requirements."
- Appendix 2, "Airworthiness Limitation Requirements," of the Legacy BJ Maintenance Planning Guide (MPG) MPG-1483, Revision 5, dated March 22, 2007, found in the EMBRAER Legacy Scheduled Maintenance Requirements Document Manual, SMRD-1533.

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 709 products of U.S. registry. We also estimate that it would take 1 work-hour 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 \$56,720 or \$80 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-2009-0132; Directorate Identifier 2008-NM-081-AD.

Comments Due Date

(a) We must receive comments by March 20, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model EMB-135BJ, -135ER, -135KE, -135KL, -135LR, -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes, certificated in any category, all serial numbers, except EMB-145LR airplanes that have been modified in accordance with Brazilian Supplemental Type Certificaites 2002S06-09, 2002S06-10, and 2003S08-01.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane. The FAA has provided guidance for this determination in Advisory Circular (AC) 25-1529-1A.

Subject

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

Reason

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

During aircraft full scale fatigue test, it has been found the occurrence of cracks in the cockpit windshield post lower eyelet fitting at the attachment of the center post on the forward fuselage (SSI 53-10-19). Further analysis of this cracking resulted in modifications on the aircraft Airworthiness Limitation Items (ALI), to include new inspection tasks and its respective intervals. Undetected fatigue cracking in this area could adversely affect the structural integrity of these airplanes.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new structural inspection requirements.

Actions and Compliance

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

(1) Within 90 days after the effective date of this AD revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate the structural inspection item (SSI) 53-10-19’s applicable tasks identified in Appendix 2, “Airworthiness Limitation Requirements,” of the applicable document listed in Table 1 of this AD. The initial compliance times for the tasks start from the applicable time specified in SSI 53-10-19 or within 200 flight cycles after revising the ALS, whichever occurs later. Repeat the applicable inspection thereafter at the interval specified in Appendix 2 of the applicable document listed in Table 1 of this AD, except as provided by paragraphs (f)(2) and (g) of this AD.

TABLE 1—SERVICE INFORMATION

Model	EMBRAER Document
EMB-135ER, -135KE, -135KL, -135LR, -145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP airplanes. EMB-135BJ airplanes	EMB135/ERJ140/EMB145 Maintenance Review Board Report (MRBR) MRB-145/1150, Revision 11, dated September 19, 2007. Legacy BJ—Maintenance Planning Guide (MPG) MPG-1483, Revision 5, dated March 22, 2007, found in the EMBRAER Legacy Scheduled Maintenance Requirements Document Manual, SMRD-1533.

Note 2: Appendix 2, “Airworthiness Limitation Requirements,” of EMBRAER EMB135/ERJ140/EMB145 MRBR MRB-145/1150, Revision 11, dated September 19, 2007, includes EMBRAER Temporary Revision 10-6, dated May 23, 2007, which is referred to in the MCAI as an applicable document to incorporate into the maintenance program.

(2) After accomplishing the actions specified in paragraph (f)(1) of this AD, no alternative inspections or inspection intervals may be used unless the inspection or inspection interval is approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, or the Agência Nacional de Aviação Civil (ANAC)

(or its delegated agent); or unless the inspection or interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows:

(1) We have removed the requirement to mandate the SSI tasks in Section 4—“Structural Inspection Requirements,” of the applicable document listed in Table 1 of this AD, which are referred to in the MCAI. Those SSI tasks are included in Appendix 2, “Airworthiness Limitation Requirements,” of

the applicable document listed in Table 1 of this AD.

(2) We have not included the 21,336-flight-cycle threshold specified in the MCAI because the airplanes in the U.S.-registered fleet have surpassed that threshold. Instead, we included a 200-flight-cycle grace period for accomplishing the SSI 53-10-19 tasks.

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: Sanjay Ralhan, Aerospace Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1405; 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 2007-07-02, effective August 21, 2007, and the service information listed in Table 1 of this AD, for related information.

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

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3399 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0135; Directorate Identifier 2008-NM-170-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-400 and 747-400D 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 747-400 and 747-400D series airplanes. This proposed AD would require repetitive inspections to detect cracks in the floor panel attachment fastener holes of the Section 41 upper deck floor beam upper chords, and related investigative and corrective actions if necessary. This proposed AD

results from reports of cracks found in the Section 41 upper deck floor beam upper chords. We are proposing this AD to detect and correct cracks in these chords, which could become large and cause the floor beams to become severed and result in rapid decompression or reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by April 6, 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 proposed 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: 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:

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-2009-0135; Directorate Identifier 2008-NM-170-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 reports of cracks found in the floor panel attachment fastener holes of the Section 41 upper deck floor beam upper chords on three different Boeing Model 747-400D series airplanes, which had accumulated 24,053, 24,783, and 25,631 total flight cycles. Similar cracks were also found on the Model 747-400 fatigue test airplane. Cracks in these chords that are not found and repaired could become large and cause the floor beams to become severed. This can lead to large deflection of the upper deck floor; and cause damage to the adjacent body skin, frames, and stringers. Because flight-critical wire bundles and control cables are routed through cutouts in the upper deck floor beams, a large deflection of the upper deck floor could result in damage to wire bundles and unintended inputs to the flight control cables, which could result in reduced controllability of the airplane. If multiple adjacent floor beams are severed, the result could be rapid decompression or reduced controllability.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747-53A2688, dated August 21, 2008. The service bulletin describes procedures for repetitive inspections for fatigue cracks of the floor panel attachment fastener holes in the Section 41 upper deck floor beam upper chords. The inspection type depends on the means of access (whether gained from above or below) and repair/modification condition. The inspection procedures described are (1) open-hole high frequency eddy current (HFEC) inspections of the floor panel

attachment fastener holes in the upper chords, or (2) surface HFEC inspections of the forward and aft horizontal flanges of the upper chords at floor panel attachment fastener holes, preceded by modification of the clipnuts for the floor panel attachment fasteners.

For airplanes with no crack, the service bulletin provides optional procedures for modifying (by oversizing) the floor panel attachment holes, which would extend the compliance time for the initiation of the repetitive inspections.

The service bulletin specifies repairing cracks per the service bulletin or contacting Boeing for repair instructions. For certain conditions, the repair procedures provided in the service bulletin include oversizing affected holes, doing an open-hole HFEC inspection for cracks, and repeating the oversizing and inspection procedures until no crack indications are found. The service bulletin also provides procedures for installing repair straps and clips for certain other conditions.

The compliance time for the initial inspection is before 20,000 total flight

cycles on the floor beam upper chords, within 1,000 flight cycles after the effective date of the service bulletin, or within 2,000 or 6,000 flight cycles (depending on the inspection type used) since the last Supplemental Structural Inspection Document (SSID) inspection (the SSID inspections are required by AD 2004-07-22 R1, amendment 39-15326 (73 FR 1052, January 7, 2008), whichever occurs latest. Cracks must be repaired before further flight. The threshold for the initiation of the repetitive inspection depends on the most recent inspection type used and repair/modification status, and ranges from 2,000 to 15,000 flight cycles. The intervals for the repetitive inspections depend on the inspection type and repair/modification status, and range from 2,000 to 6,000 flight cycles.

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 below.

Differences Between Proposed Rule and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions 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.

Costs of Compliance

We estimate that this proposed AD would affect 53 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspection	48 or 50	\$80	None	\$3,840 or \$4,000 per inspection cycle.	53	Up to \$212,000 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

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-2009-0135; Directorate Identifier 2008-NM-170-AD.

Comments Due Date

- (a) We must receive comments by April 6, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747-400 and 747-400D series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747-53A2688, dated August 21, 2008.

Subject

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

Unsafe Condition

(e) This AD results from reports of cracks found in the Section 41 upper deck floor beam upper chords. We are issuing this AD to detect and correct cracks in these chords, which could become large and cause the floor beams to become severed and result in rapid decompression or reduced controllability of the airplane.

Compliance

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

Inspections and Corrective Actions

(g) Except as required by paragraphs (h) and (i) of this AD: At the applicable times in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747-53A2688, dated August 21, 2008, do an inspection (open-hole or surface high frequency eddy current), to detect cracks in the floor panel attachment fastener holes of the Section 41 upper deck floor beam upper chords, and do applicable related investigative and corrective actions, by accomplishing all the applicable actions specified in the Accomplishment Instructions of the service bulletin. Repeat the inspections thereafter at the applicable times specified in paragraph 1.E., "Compliance," of the service bulletin.

(h) If any crack is found during any inspection required by paragraph (g) of this AD, and Boeing Alert Service Bulletin 747-53A2688, dated August 21, 2008, specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Where Boeing Alert Service Bulletin 747-53A2688, dated August 21, 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 Aircraft Certification Office, 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.

Issued in Renton, Washington, on February 5, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3386 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[REG-148326-05]

RIN 1545-BF50

Further Guidance on the Application of Section 409A to Nonqualified Deferred Compensation Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to a notice of proposed rulemaking (REG-148326-05) that was published in the *Federal Register* on Monday, December 8, 2008 (73 FR 74380) providing guidance on the calculation of amounts includible in income under section 409A(a) and the additional taxes imposed by such section with respect to service providers participating in certain nonqualified deferred compensation plans. The regulations would affect such service providers and the service recipients for whom the service providers provide services.

FOR FURTHER INFORMATION CONTACT: Stephen Tackney, (202) 927-9639 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The correction notice that is the subject of this document is under section 409A of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG-148326-05) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG-148326-05), which was the subject of FR Doc. E8-28894, is corrected as follows:

On page 74380, column 3, in the preamble, under the caption **FOR FURTHER INFORMATION CONTACT:**, lines 1 and 2 from the bottom of the paragraph, the language "hearing, Funmi Taylor at (202) 622-7190 (not toll-free numbers)." is corrected to read "hearing, Funmi Taylor at (202) 622-3628 (not toll-free numbers)".

LaNita Van Dyke,

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

[FR Doc. E9-3323 Filed 2-17-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 110**

[Docket No. USCG-2008-0027]

RIN 1625-AA01

Anchorage Regulations; Port of New York

AGENCY: Coast Guard, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Coast Guard is withdrawing its proposed rule concerning the revision of boundaries of three anchorage grounds adjacent to Ellis and Liberty Islands in Upper New York Bay. The proposed rule is being withdrawn due to the decision not to expand two security zones around Ellis and Liberty Islands. The decision not to expand the security zones removes the need to revise the anchorage ground boundaries.

DATES: The proposed rule published at 73 FR 27775, May 14, 2008, is withdrawn, effective February 18, 2009.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2008–0027 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call Mr. John Mauro at (617) 223–8355. If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2008, we published in the *Federal Register* a notice of proposed rulemaking that proposed to revise the boundaries of three anchorage grounds adjacent to Ellis and Liberty Islands in Upper New York Bay (73 FR 27775). This notice of proposed rulemaking was entitled “Anchorage Regulations; Port of New York” and is available at docket number USCG–2008–0027. The reason we proposed to revise the boundaries of those three anchorages was to coordinate with a separate rulemaking proposing the expansion of two security zones adjacent to Ellis and Liberty Islands. The notice of proposed rulemaking proposing expansion of the security zones was published in the *Federal Register* on May 6, 2008, (73 FR 24889), and is available at docket number USCG–2007–0074.

Due to comments received regarding the proposed expansion of two security zones, we will not expand these two security zones; the decision not to expand them was recently published as part of the final rule concerning “Safety and Security Zones: New York Marine Inspection Zone and Captain of the Port Zone,” docket number USCG–2007–0074. This decision removes the need to revise the size of the three adjacent anchorage grounds.

Withdrawal

Because we will not expand the security zones discussed above, there is no need to revise the boundaries of the three anchorage grounds adjacent to Ellis and Liberty Islands in Upper New York Bay. Therefore, we are withdrawing our proposal to revise those anchorage grounds, which was published on May 14, 2008, in the *Federal Register* (73 FR 27775).

Authority

We issue this notice of withdrawal under the authority of 33 U.S.C. 471, 1221 through 1236, 2030, 2035 and

2071; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

Dated: November 13, 2008.

Dale G. Gabel,
Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.

[FR Doc. E9–3381 Filed 2–17–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 71, 114, 115, 122, 170, 171, 172, 174, 175, 176, 178, 179, and 185

[Docket No. USCG–2007–0030]

RIN 1625–AB20

Passenger Weight and Inspected Vessel Stability Requirements

AGENCY: Coast Guard, DHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Coast Guard is reopening the period for public comment on its notice of proposed rulemaking (NPRM) on regulations governing the stability of passenger vessels and the maximum number of passengers that may safely be permitted on board a vessel. The comment period will close on March 20, 2009.

DATES: The comment period for the proposed rule published at 73 FR 49244, August 20, 2008, and reopened at 73 FR 74426, December 8, 2008, is again reopened. Comments and related material must be received on or before March 20, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2007–0030 using any one of the following methods:

- (1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- (2) *Fax:* 202–493–2251.
- (3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

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

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Mr. William Peters, U.S. Coast Guard, Office of Design and Engineering Standards, Naval Architecture Division (CG–5212), telephone 202–372–1371. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

The Coast Guard has requested comments as to all aspects of the rulemaking. We particularly encourage you at this time to submit comments and related material on the “Pontoon Vessel Passenger Crowding Stability Criteria Study, Appendix 1.” All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments: If you submit a comment, please include the docket number for this notice (USCG–2007–0030) and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert “USCG–2007–0030” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing comments and Appendix 1: To view the comments and the “Pontoon Vessel Passenger Crowding Stability Criteria Study, Appendix 1” go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG–2007–0030 in the Docket ID box, press

Enter, and then click on the item in the Docket ID column. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act, system of records notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Background and Purpose

On August 20, 2008, The Coast Guard published an NPRM entitled "Passenger Weight and Inspected Vessel Stability Requirements" (73 FR 49244). During the NPRM's original comment period, which ended November 18, 2008, members of the public requested that the Coast Guard add to the docket a study cited in support of certain stability findings that resulted in proposed changes to 46 CFR 171 in the NPRM.

The 12-page study, entitled the "Pontoon Vessel Passenger Crowding Stability Criteria Study," was added to the docket on October 30, 2008 (document number USCG-2007-0030-0139.1). Following the addition of the study, members of the public stated that they did not have sufficient time to review and comment on this study before the close of the comment period. On December 8, 2008, the Coast Guard reopened the comment period for 60 days to afford the public additional time to comment (73 FR 74426).

During the reopened comment period the Coast Guard became aware that an appendix to the study, that had not been previously released, would assist the public in understanding the Pontoon Vessel Passenger Crowding Stability Criteria Study. We added this information, entitled "Pontoon Vessel Passenger Crowding Stability Criteria Study, Appendix 1" to the docket on February 09, 2009 (document number USCG-2007-0030-0204.1). In order to ensure the public has sufficient time to utilize the information in the appendix we will reopen the comment period, which closed February 6, 2009, for 30 additional days. The comment period

will close on March 20, 2009. Additionally, you are reminded that you may comment on any aspect of the rulemaking, including on any comments placed in the docket. We may change the proposed rules in response to the comments received.

Dated: February 10, 2009.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. E9-3155 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 080728943-9153-01]

RIN 0648-AX12

Atlantic Highly Migratory Species; 2009 Atlantic Bluefin Tuna Quota Specifications and Effort Controls

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

ACTION: Proposed rule; request for comments; notice of public hearings.

SUMMARY: NMFS proposes 2009 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quotas for each of the established domestic fishing categories and to set effort controls (daily retention limits) for the General and Angling categories. This action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS solicits written comments and will hold public hearings to receive oral comments on these proposed actions.

DATES: Written comments must be received on or before March 20, 2009.

The public hearing dates are:

1. March 4, 2009, 3 p.m. to 5 p.m., Gloucester, MA.
2. March 17, 2009, 4 p.m. to 6 p.m., Silver Spring, MD.

ADDRESSES: You may submit comments, identified by "0648-AX12", by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the

Federal eRulemaking Portal <http://www.regulations.gov>

• Fax: 978-281-9340, Attn: Sarah McLaughlin

• Mail: Sarah McLaughlin, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 55 Great Republic Dr., Gloucester, MA 01930

Instructions: All comments received are a part of the public record and will generally be posted to Portal <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter "n/a" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The hearing locations are:

1. Gloucester -- NMFS, 55 Great Republic Drive, Gloucester, MA 01930.
2. Silver Spring -- NOAA Science Center, 1301 East-West Highway, Silver Spring, MD 20910.

Supporting documents including the 2009 draft Environmental Assessment, Initial Regulatory Flexibility Analysis, and Regulatory Impact Review are available by sending your request to Sarah McLaughlin at the mailing address specified above.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978-281-9260.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Background

On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) final regulations, effective November 1, 2006, implementing the Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP), which consolidated management of all Atlantic HMS (i.e., sharks, swordfish, tunas, and billfish) into one comprehensive FMP. The implementing regulations for Atlantic HMS are at 50 CFR part 635.

The 2009 annual specifications are necessary to implement the 2008 ICCAT quota recommendation (ICCAT Recommendation 08–04), as required by ATCA, and to achieve domestic management objectives under the Magnuson–Stevens Act. The proposed rule would establish quota specifications consistent with the ICCAT Western Atlantic BFT rebuilding program by adjusting the 2008 ICCAT–recommended U.S. quota as necessary for the 2009 fishing year (January–December 2009), and establish General category and Angling category effort controls (daily retention limits) for the 2009 fishing season.

Overall U.S. landings figures for the 2008 fishing year are still preliminary and may be updated before these 2009 fishing year specifications are finalized. The specifications and effort controls may subsequently be adjusted during the course of the fishing year, consistent with the provisions of the Consolidated HMS FMP, and, as appropriate, would be published in the **Federal Register**.

NMFS has prepared a draft Environmental Assessment (EA), Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis (IRFA) which present and analyze anticipated environmental, social, and economic impacts of several alternatives for each of the major issues contained in this proposed rule. The complete list of alternatives and their analysis is provided in the draft EA/RIR/IRFA, and is not repeated here in its entirety. A copy of the draft EA/RIR/IRFA prepared for this proposed rule is available from NMFS (see **ADDRESSES**).

2008 ICCAT Recommendation, BFT Underharvests, and Transfers to Other ICCAT Contracting Parties

At its 2008 meeting, ICCAT recommended a reduction in the western Atlantic BFT Total Allowable Catch (TAC), from 2,100 mt to 1,900 mt for 2009 and 1,800 mt for 2010 (including dead discards). These TACs are intended to allow for rebuilding of BFT in the western Atlantic through 2018, i.e., rebuild the stock by 2019, and to end overfishing by 2010. From these initial TACs, the following allocations are made: 4 mt for the United Kingdom (in respect of Bermuda), 4 mt for France (in respect of St. Pierre and Miquelon), 95 mt for Mexico (to allow incidental catch in the longline fishery in the Gulf of Mexico), and, for bycatch related to directed longline fisheries in the Northeast Distant gear restricted area (NED), 15 mt for Canada and 25 mt for the United States. The U.S. share of the adjusted TAC following the adjustments described above is 57.48 percent, or

1,009.9 mt for 2009; this is the baseline annual U.S. BFT quota. Accounting for the 25–mt NED allocation, the total U.S. quota is 1,034.9 mt for 2009. The previous (2006) ICCAT recommendation for a western Atlantic BFT TAC of 2,100 mt (ICCAT Recommendation 06–06) included a total U.S. quota of 1,190.12 mt (1,165.12 mt and 25 mt for the NED), which was effective from 2007 through the end of the 2008 fishing year, i.e., December 31, 2008.

The 2008 ICCAT recommendation also includes provisions to: (1) limit carryover of underharvest to no more than 50 percent of a contracting party's initial quota; (2) limit mortality of BFT measuring less than 115 cm (45 inches) to an average of 10 percent of the initial quota over the 2009–2010 fishing periods (a change from previous recommendations that provided a 4-year period to balance the 10–percent tolerance); and (3) allow a contracting party with a TAC allocation (i.e., an ICCAT BFT quota) to make a one-time transfer within a fishing year of up to 15 percent of its TAC allocation to other contracting parties with TAC allocations, consistent with domestic obligations and conservation considerations. NMFS manages the second provision by limiting quota available for the retention of school BFT (measuring 27 inches (68.6 cm) to less than 47 inches (119.4 cm)) to no more than 10 percent of the total U.S. quota and may adjust a subsequent year's school BFT subquota as needed to be consistent with the ICCAT recommendation. Regarding the third provision, the ICCAT recommendation stipulates that the quota transfer may not be used to cover overharvests, and that a contracting party that receives a one-time quota transfer may not retransfer that quota. For the United States, the 15–percent limit on quota transfer equals 155.2 mt. Consistent with 50 CFR 635.27(a)(8), NMFS would consider several factors in deciding whether or not the United States would enter into an arrangement with another ICCAT contracting party, including, but not limited to, the amount of quota to be transferred, the projected ability of U.S. vessels to harvest the total U.S. BFT quota before the end of the fishing year, the potential benefits of the transfer to U.S. fishing participants, potential ecological impacts, and the contracting party's ICCAT compliance status. Should NMFS consider a transfer of U.S. quota to another ICCAT contracting party, NMFS would publish a separate action in the **Federal Register**, which would provide detail of

the transaction considered, including information regarding the factors above.

Initial landings estimates for the 2008 fishing year (as of January 13, 2009) per category are as follows: General category — 230 mt; Harpoon category — 22 mt; Longline category — 82 mt; Angling category — 436 mt; Trap category — 2 mt; and Purse Seine category — 0 mt. These preliminary landings estimates, totaling 772 mt, indicate that the total 2008 underharvest is 705. However, the ICCAT recommendation limits the amount the United States may carry over for 2009 to 50 percent of the 2009 Total U.S. BFT quota, which equals 517.5 mt.

Domestic Allocations and Quotas

The 1999 Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP) and its implementing regulations established baseline percentage quota shares for the domestic fishing categories. These percentage shares were based on allocation procedures that NMFS developed over several years. The baseline percentage quota shares established in the 1999 FMP and continued in the Consolidated HMS FMP, i.e., effective since June 1, 1999, are as follows: General category — 47.1 percent; Harpoon category — 3.9 percent; Purse Seine category — 18.6 percent; Angling category — 19.7 percent; Longline category — 8.1 percent; Trap category — 0.1 percent; and Reserve category — 2.5 percent. The proposed 2009 fishing year specifications would allocate the 2008 ICCAT–recommended quota for the 2009 fishing year among these established domestic fishing categories and would allocate 25 mt for bycatch related to directed longline fisheries in the NED.

As described further below, these specifications also would apply 517.5 mt of the underharvest of BFT quota from the 2008 fishing year to the 2009 fishing year, consistent with the ICCAT–recommended 50–percent cap on quota carryover, and distribute that underharvest to: (1) Ensure that the Longline category has sufficient quota to operate during the 2009 fishing year while also accounting for BFT discards; (2) set 15 percent of the 2009 U.S. quota in reserve for potential transfer to other ICCAT Contracting Parties, if warranted; and (3) provide the non–Longline quota categories a share of the remainder of the underharvest consistent with the Consolidated HMS FMP BFT quota allocation scheme.

The United States must report BFT dead discard estimates to ICCAT annually and accounts for this mortality

as part of the specification calculation process. To be consistent with U.S. reports to the ICCAT Standing Committee on Research and Statistics for stock assessment purposes, NMFS reports dead discards as the estimate generated via extrapolation of pelagic longline vessel logbook tallies by pooled observer data, as warranted. Since dead discard estimates for 2008 are not yet available, the NMFS estimate of 90 mt for 2007 is used as a proxy. Per the ICCAT recommendation, which specifies a U.S. quota that is inclusive of dead discards, and consistent with the BFT quota regulations at § 635.27(a), NMFS would subtract the 90 mt of estimated dead discards from the amount of quota available for the Longline category for the 2009 fishing year. The best available information indicates that pelagic longline landings and dead discards for 2007 totaled 164.3 mt. The baseline longline category quota is 81.8 mt. Therefore, NMFS proposes to use 82.5 mt of BFT underharvest to cover the anticipated pelagic longline fishery landings during the 2009 fishing year. Making available additional landings quota in this manner likely will allow the fishery to operate for the entire fishing year and avoid discards that could result if the BFT Longline category fishery were closed due to the quota being filled while longline vessels are still fishing for other species.

Additionally, NMFS proposes to place 155.2 mt (i.e., 15 percent of 1,034.9 mt) of 2008 underharvest in the Reserve category for transfer to other ICCAT contracting parties, if warranted, and for other domestic management objectives. NMFS proposes to distribute the remainder of the quota carryover (363 mt) to the Angling, General, Harpoon, Purse Seine, and Trap categories consistent with the FMP allocations.

2009 Quota Specifications

In accordance with the 2008 ICCAT recommendation (Recommendation 08–04), the Consolidated HMS FMP percentage shares for each of the domestic categories, and regulations regarding annual adjustments at § 635.27(a)(10), NMFS proposes quotas for the 2009 fishing year as follows: General category — 623.1 mt; Harpoon category — 51.6 mt; Purse Seine category — 246.0 mt; Angling category — 260.6 mt; Longline category — 74.3 mt; and Trap category — 1.3 mt. A total of 180.4 mt (155.2 plus the baseline quota of 25.2 mt) would be allocated to the Reserve category for inseason adjustments, scientific research collection, potential overharvest in any category except the Purse Seine category, and potential quota transfers.

Adjustments to these 2009 quotas and subquotas will be made, if necessary based on revised 2008 landings information, in the final rule.

The proposed General category quota of 623.1 mt would be divided per the time period allocations established in the Consolidated FMP, i.e., 33.0 mt (5.3 percent) for the period beginning January 1, 2009, and ending January 31, 2009; 311.5 mt (50 percent) would be available in the period beginning June 1, 2009, and ending August 31, 2009; 165.1 mt (26.5 percent) would be available in the period beginning September 1, 2009, and ending September 30, 2009; 81.0 mt (13 percent) would be available in the period beginning October 1, 2009, and ending November 30, 2009; and 32.4 mt (5.2 percent) would be available in the period beginning December 1, 2009, and ending December 31, 2009.

The Angling category quota of 260.6 mt would be further subdivided as follows: School BFT — 103.5 mt, with 39.8 mt to the northern area (north of 39°18' N. latitude), 44.5 mt to the southern area (south of 39°18' N. latitude), plus 19.1 mt held in reserve; large school/small medium BFT — 151.1 mt, with 71.3 mt to the northern area and 79.8 mt to the southern area; and large medium/giant BFT — 6.0 mt, with 2 mt to the northern area and 4 mt to the southern area.

The Longline category would be subdivided in accordance with the North/South allocation percentages (i.e., no more than 60 percent to the south of 31° N. latitude). Thus, the proposed Longline category quota of 74.3 mt would be subdivided as follows: 29.7 mt to pelagic longline vessels landing BFT north of 31° N. latitude and 44.6 mt to pelagic longline vessels landing BFT south of 31° N. latitude. NMFS would account for landings under the 25–mt NED allocation separately from other Longline category landings.

General Category Effort Controls

On December 18, 2008, NMFS set the January 2009 General category BFT daily retention limit at two BFT per vessel, via an inseason action (73 FR 76972). This retention limit was selected following review of dealer reports, daily landing trends, the winter fishery performance over the last several years, the availability of BFT on the fishing grounds, and the relatively small January General category baseline subquota. The General category fishery closed on January 31, 2009, and will reopen June 1, 2009.

NMFS proposes to increase the General category daily retention limit to three BFT (73 inches (185.4 cm) or

greater per vessel) for the June–August subperiod. This action is intended to allow increased opportunities to harvest the General category quota during the period when catch rates have been slow and to avoid accumulation of unused quota. This retention limit would be effective from June 1, 2009, through August 31, 2009, unless later adjusted with an inseason action, if necessary. NMFS may consider further daily retention limit adjustments after August 31, 2009, depending on several factors, including but not limited to catch rates and availability of quota.

Regardless of the duration of a fishing trip, the daily retention limit applies. For example, whether a vessel that is fishing under the General category limit takes a two-day trip or makes two trips in one day, the limit of three fish overall applies and may not be exceeded.

Angling Category Effort Controls

NMFS proposes to maintain the default Angling category daily retention limit of one school, large school, or small medium BFT (i.e., one fish measuring 27 inches to less than 73 inches (185.4 cm)) per vessel.

Prior to 2007, recreational BFT fishing activity was largely focused on fishing opportunities for school BFT (27 to less than 47 inches). However, recreational BFT fishing data and dockside observations from 2007 forward indicate a recent shift in catch to the large school/small medium size class (47 to less than 73 inches), particularly to large school BFT [(47 to less than 59 inches (149.9 cm)]. In the last two fishing years, availability and landings of the recreational size classes (27 to less than 73 inches) has been high, and the 2007 and 2008 Angling category quotas are estimated to have been exceeded. It has become apparent to NMFS that the availability of recreational size fish is limited to a narrow size range or cohort that NMFS estimates to have been approximately age 4 in 2007 and age 5 in 2008. The majority of these fish in 2008 were in the large school size range. However, in 2009, NMFS anticipates these BFT will be approximately age 6 and will enter the small medium size class (59 to less than 73 inches). NMFS manages the recreational BFT quota by size class, so as this cohort of fish ages and grows in weight but remains under 73 inches, NMFS expects the large school/small medium subquota to be attained with fewer fish landed.

NMFS considered the results of the 2007 and 2008 fishing seasons under the various limits when selecting the proposed 2009 Angling category daily retention limit. In addition, NMFS considered the observed trend in the

recreational fishery toward heavier fish, particularly in the large school and small medium size classes. Under a daily retention limit of one school BFT and two large school/small medium BFT in 2007, total Angling category landings were nearly double the adjusted Angling category quota, largely due to the landings of large school/small medium BFT. For the 2008 fishing year, NMFS lowered the daily retention limit to one school BFT and one large school/small medium BFT. Despite these lower retention limits, preliminary 2008 estimates indicate that the total Angling category quota was again exceeded (by approximately 30 percent), and although the school BFT landings fell well below the subquota in 2008, the landings of large school/small medium BFT were approximately two times the associated quota.

NMFS considered three daily retention limit alternatives that would be as restrictive, or more restrictive, than the 2008 daily retention limits in order to ensure that the Angling category quota is not again exceeded. Because of the reduced ICCAT-recommended BFT TAC and the resulting reduced U.S. quota, all domestic quotas are decreased from the 2008 level. In order to constrain landings to the proposed adjusted Angling category quota (260.6 mt), NMFS must implement conservative daily retention limits in 2009. This is particularly important given the new ICCAT-recommended 2-year balancing period for limiting the harvest of school BFT and given that complete information regarding coastwide recreational BFT landings is not available until the end of the calendar year. NMFS manages BFT subquotas so that they are not exceeded both to adhere to the current FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (e.g., fish caught at each age) that was assumed in the projections of stock rebuilding. Given that the proposed Angling category daily retention limit will expire on December 31, 2009, NMFS will consider the results of the 2009 fishing year, i.e., available landings information and the daily retention limits implemented for the 2009 recreational fishery, when selecting the proposed 2010 Angling category daily retention limits or preparing future recreational inseason actions.

The proposed rule would provide the same daily retention limit for both private and charter/headboat vessels. Given the limited amount of Angling category quota available and the likely availability of larger fish to recreational

anglers, assigning higher daily retention limits to charter/headboats would risk overharvest of the Angling category quota and subquotas.

Regardless of the duration of a fishing trip, the daily retention limit applies. For example, whether a vessel that is fishing under the Angling category limit takes a two-day trip or makes two trips in one day, the limit of one fish overall applies and may not be exceeded.

NMFS specifically requests public comment on one of the alternatives to the proposed action, which would establish a daily retention limit, for both the charter/headboat and the private sectors of the fishery, of one school BFT (27 to less than 47 inches) per vessel for the entire 2009 fishing year and, additionally, one large school/small medium BFT (47 to less than 73 inches) per vessel for specific date ranges. For example, NMFS could manage the Angling category using the North/South line (39°18' N. latitude, currently used in dividing the Angling category quota) so that the fishery is open in the southern area for the early summer and for the northern area in the late summer/fall. This approach was used in managing the school BFT fisheries in 2006. This alternative is intended to allow anglers the opportunity to retain a large school/small medium BFT during part or parts of the 2009 fishing season while reducing the risk of overharvest of the large school/small medium BFT adjusted subquota. NMFS seeks specific suggestions regarding appropriate periods during the 2009 fishing season for retention of the additional one large school/small medium BFT.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the 2006 Consolidated HMS FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

NMFS has prepared an IRFA to analyze the impacts on small entities of the alternatives for establishing 2009 fishing year BFT quotas for all domestic fishing categories and General and Angling category effort controls. The IRFA assesses the impacts of the various alternatives on the vessels that participate in the BFT fisheries, all of which are considered "small entities." In order to do this, NMFS has estimated the average impact that the alternatives to establish the 2009 BFT quota for all domestic fishing categories would have on individual categories and the vessels within those categories. As mentioned above, the 2008 ICCAT recommendation reduced the U.S. BFT quota to 1,034.9 mt. This quota allocation includes 25 mt to account for incidental catch of BFT related to directed longline fisheries in the NED. This action would distribute the adjusted (baseline) quota of 1,009.9 mt to the domestic fishing categories based on the allocation percentages established in the Consolidated HMS FMP.

In 2008, the annual gross revenues from the commercial BFT fishery were approximately \$5.0 million. Approximately 9,871 vessels are permitted to land and sell BFT under four commercial BFT quota categories (including charter/headboat vessels). The commercial categories and their 2008 gross revenues are General (\$4.0 million), Harpoon (\$313,781), Purse Seine (\$0), and Longline (\$722,016). The IRFA assumes that each vessel within a category will have similar catch and gross revenues to show the relative impact of the proposed action on vessels.

Data on net revenues of individual fishermen are lacking, so the economic impact of the alternatives is averaged across each category. NMFS considers this a reasonable approach for BFT fisheries. More specifically, available landings data (weight and ex-vessel value of the fish in price/pound) allow NMFS to calculate the gross revenue earned by a fishery participant on a successful trip. The available data do not, however, allow NMFS to calculate the effort and cost associated with each successful trip (e.g., the cost of gas, bait, ice, etc.) so net revenue for each participant cannot be calculated. NMFS cannot determine whether net revenue varies among individual fishery participants within each category, and therefore whether the economic impact of a regulation would have a varying impact among individual participants. As a result, NMFS analyzes the average impact of the proposed alternatives among all participants in each category.

For the allocation of BFT quota among domestic fishing categories, NMFS considered three alternatives: A no action alternative (Alternative 1); Alternative A2 (the preferred alternative), which would implement the U.S. quota under the 2008 ICCAT recommendation and consistent with the Consolidated HMS FMP; and Alternative A3, which would implement the U.S. quota under the 2008 ICCAT recommendation in a manner other than that designated in the Consolidated HMS FMP and which would address issues regarding the changing nature of the BFT fisheries since the Consolidated HMS FMP was written (e.g., allocate additional quota to certain categories and/or certain geographic regions). Alternative A3 would result in a reallocation of quota among categories, and an FMP amendment would be necessary for its implementation. Per the Consolidated HMS FMP, NMFS prepares quota specifications annually for the upcoming fishing year. Preparation of an FMP amendment would not be possible in the brief period of time between receipt of the ICCAT recommendation, which occurred in late November 2008, and the start of the 2009 fishing year on January 1, 2009. Therefore, analysis of the impacts of Alternative A3 is not practicable. If an FMP amendment were feasible prior to the 2009 fishing year, positive economic impacts would be expected to result on average for vessels in permit categories that would receive a greater share than currently established in the Consolidated HMS FMP, and negative economic impacts would be expected to result on average for vessels in permit categories that would receive a lesser share than currently established in the Consolidated HMS FMP. Impacts per vessel would depend on the temporal and spatial availability of BFT to fishery participants.

The no action alternative (A1) would keep the quota at pre-2008 ICCAT recommendation levels (approximately 155 mt more) and would not be consistent with the purpose and need for this action and the Consolidated HMS FMP because it would ignore the recommendation of ICCAT, which NMFS must implement pursuant to ATCA. It would maintain economic impacts to the United States and to local economies at a distribution and scale similar to 2008 or recent prior years, and would provide fishermen additional fishing opportunities, subject to the availability of BFT to the fishery, in the short term.

As noted above, the preferred alternative (Alternative A2) would

implement the 2008 ICCAT recommendation in accordance with the Consolidated HMS FMP and consistent with ATCA, under which the United States is obligated to implement ICCAT-approved quota recommendations. Alternative A2 would have slightly positive socio-economic impacts for fishermen. The preferred alternative also would implement the provision of the 2008 ICCAT recommendation that limits tolerance for school BFT landings to 10 percent of the total U.S. BFT quota, calculated on a two-year average, over 2009 and 2010. This is expected to have neutral impacts on fishermen who fish for school BFT, particularly those who rely exclusively on the school size class for BFT harvest, as NMFS has successfully managed the school BFT fishery since the 2006 recommendation so as to not exceed the school BFT tolerance on an annual basis.

A daily retention limit of three BFT (measuring 73 inches or greater per vessel) is the preferred alternative (Alternative B3) for the opening retention limit for the General category, which would be in effect from June 1 through August 31, 2009. This alternative is expected to result in the most positive socio-economic impacts by providing the best opportunity to harvest the quota while avoiding oversupplying the market, thus maximizing gross revenues. Other considered alternatives were the no action alternative (Alternative B1, the current default daily retention limit of one BFT measuring 73 inches or greater per vessel) and Alternative B2, a daily retention limit of two BFT (73 inches or greater per vessel). Both of these alternatives would not provide adequate fishing opportunities given the large amount of adjusted quota available for the General category during the 2009 fishing year and could result in the negative economic impact of lower gross revenues. Although early season landings seldom occur at a rate that could oversupply the market, NMFS will monitor landings closely to ensure that the increased daily retention limit does not contribute to an oversupply.

Three alternatives were considered for Angling category daily retention limits for the 2009 fishing year. The preferred/no action alternative (Alternative C1) is a daily retention limit of one fish measuring 27 inches to less than 73 inches) per vessel for all sectors of the Angling category for the entire 2009 fishing year. The other alternative that would provide a constant daily retention limit is Alternative C2 (one fish measuring 27 inches to less than 47 inches and one fish measuring 47 inches to less than 73 inches per vessel). This

is not the preferred alternative as it could result in overharvest of the quota, based on the results of the 2008 season and the apparent trend in increasing fish weight in the large school/small medium BFT size range. Alternative C3 (one fish measuring 27 inches to less than 47 inches and, for certain periods, one fish measuring 47 inches to less than 73 inches per vessel) would be designed to constrain large school/small medium BFT landings to the available subquota and would be more restrictive with regard to retention of this size class than Alternative C2. However, this is not the preferred alternative as it may not be effective in constraining the recreational landings to the adjusted large school/small medium BFT subquota and may not provide consistent and equitable fishing opportunities to all users. The proposed action (Alternative C1) was selected to balance the intent of filling the Angling category quota without overharvesting and providing economic benefits to all regional sectors of the fishery. NMFS seeks specific suggestions regarding Alternative C3, i.e., the appropriate periods during the 2009 fishing season for retention of the additional one large school/small medium BFT.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. This proposed rule has also been determined not to duplicate, overlap, or conflict with any other Federal rules.

Public Hearings

The hearing locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Sarah McLaughlin at (978) 281-9279, at least 7 days prior to the meeting.

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Management, Treaties.

Dated: February 12, 2009.

James W. Balsiger

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.27, paragraphs (a) introductory text, (a)(1)(i), (a)(2), (a)(3), (a)(4)(i), (a)(5), (a)(6), (a)(7)(i), (a)(7)(ii), and (a)(10)(iii) are revised to read as follows:

§ 635.27 Quotas.

(a) *BFT*. Consistent with ICCAT recommendations, and with paragraph (a)(10)(iv) of this section, NMFS may subtract the most recent, complete, and available estimate of dead discards from the annual U.S. BFT quota, and make the remainder available to be retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction. The remaining baseline annual U.S. BFT quota will be allocated among the General, Angling, Harpoon, Purse Seine, Longline, Trap, and Reserve categories. BFT may be taken by persons aboard vessels issued Atlantic Tunas permits, HMS Angling permits, or HMS Charter/Headboat permits. The baseline annual U.S. BFT quota is 1,009.9 mt, not including an additional annual 25 mt allocation provided in paragraph (a)(3) of this section. Allocations of the baseline annual U.S. BFT quota are: General – 47.1 percent (475.7 mt); Angling – 19.7 percent (199.0 mt), which includes the school BFT held in reserve as described under paragraph (a)(7)(ii) of this section; Harpoon – 3.9 percent (39.4 mt); Purse Seine – 18.6 percent (187.8 mt); Longline – 8.1 percent (81.8 mt), which does not include the additional annual 25 mt allocation provided in paragraph (a)(3) of this section; and Trap – 0.1 percent (1.0 mt). The remaining 2.5 percent (25.2 mt) of the baseline annual U.S. BFT quota will be held in reserve for inseason or annual adjustments based on the criteria in paragraph (a)(8) of this section. NMFS may apportion a quota allocated to any category to specified fishing periods or to geographic areas and will make annual adjustments to quotas, as specified in paragraph (a)(10) of this section. BFT quotas are specified in whole weight.

(1) * * *

(i) Catches from vessels for which General category Atlantic Tunas permits have been issued and certain catches from vessels for which an HMS Charter/Headboat permit has been issued are counted against the General category quota in accordance with § 635.23(c)(3). The amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold under the General category quota is 47.1 percent (475.7 mt) of the baseline annual U.S. BFT quota, and is apportioned as follows:

(A) January 1 through January 31 – 5.3 percent (25.2 mt);

(B) June 1 through August 31 – 5.0 percent (237.8 mt);

(C) September 1 through September 30 – 26.5 percent (126.1 mt);

(D) October 1 through November 30 – 13 percent (61.8 mt); and

(E) December 1 through December 31 – 5.2 percent (24.7 mt).

* * * * *

(2) *Angling category quota*. In accordance with the framework procedures of the HMS FMP, prior to each fishing year or as early as feasible, NMFS will establish the Angling category daily retention limits. The total amount of BFT that may be caught, retained, possessed, and landed by anglers aboard vessels for which an HMS Angling permit or an HMS Charter/Headboat permit has been issued is 19.7 percent (199.0 mt) of the baseline annual U.S. BFT quota. No more than 2.3 percent (4.6 mt) of the annual Angling category quota may be large medium or giant BFT. In addition, over each 2-consecutive-year period (starting in 2009, inclusive), no more than 10 percent of the annual U.S. BFT quota, inclusive of the allocation specified in paragraph (a)(3) of this section, may be school BFT. The Angling category quota includes the amount of school BFT held in reserve under paragraph (a)(7)(ii) of this section. The size class subquotas for BFT are further subdivided as follows:

(i) After adjustment for the school BFT quota held in reserve (under paragraph (a)(7)(ii) of this section), 52.8 percent (44.5 mt) of the school BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18' N. lat. The remaining school BFT Angling category quota (39.8 mt) may be caught, retained, possessed or landed north of 39°18' N. lat.

(ii) An amount equal to 52.8 percent (48 mt) of the large school/small medium BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18' N. lat. The remaining large school/small medium BFT Angling category quota (42.9 mt) may be caught, retained, possessed or landed north of 39°18' N. lat.

(iii) An amount equal to 66.7 percent (3.1 mt) of the large medium and giant BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18' N. lat. The remaining large medium and giant BFT Angling category quota (1.5 mt) may be caught, retained, possessed or landed north of 39°18' N. lat.

(3) *Longline category quota*. The total amount of large medium and giant BFT

that may be caught incidentally and retained, possessed, or landed by vessels that possess Longline category Atlantic Tunas permits is 8.1 percent (81.8 mt) of the baseline annual U.S. BFT quota. No more than 60.0 percent (49.1 mt) of the Longline category quota may be allocated for landing in the area south of 31°00' N. lat. In addition, 25 mt shall be allocated for incidental catch by pelagic longline vessels fishing in the Northeast Distant gear restricted area as specified at § 635.23(f)(3).

(4) * * *

(i) The total amount of large medium and giant BFT that may be caught, retained, possessed, or landed by vessels that possess Purse Seine category Atlantic Tunas permits is 18.6 percent (187.8 mt) of the baseline annual U.S. BFT quota. The directed purse seine fishery for BFT commences on July 15 of each year unless NMFS takes action to delay the season start date. Based on cumulative and projected landings in other commercial fishing categories, and the potential for gear conflicts on the fishing grounds or market impacts due to oversupply, NMFS may delay the BFT purse seine season start date from July 15 to no later than August 15 by filing an adjustment with the Office of the Federal Register prior to July 1.

* * * * *

(5) *Harpoon category quota*. The total amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold by vessels that possess Harpoon category Atlantic Tunas permits is 3.9 percent (39.4 mt) of the baseline annual U.S. BFT quota. The Harpoon category fishery closes on November 15 each year.

(6) *Trap category quota*. The total amount of large medium and giant BFT that may be caught, retained, possessed, or landed by vessels that possess Trap category Atlantic Tunas permits is 0.1 percent (1.0 mt) of the baseline annual U.S. BFT quota.

(7) * * *

(i) The total amount of BFT that is held in reserve for inseason or annual adjustments and fishery-independent research using quotas or subquotas is 2.5 percent (25.2 mt) of the baseline annual U.S. BFT quota. Consistent with paragraph (a)(8) of this section, NMFS may allocate any portion of this reserve for inseason or annual adjustments to any category quota in the fishery.

(ii) The total amount of school BFT that is held in reserve for inseason or annual adjustments and fishery-independent research is 18.5 percent (19.1 mt) of the total school BFT Angling category quota as described

under paragraph (a)(2) of this section. This is in addition to the amounts specified in paragraph (a)(7)(i) of this section. Consistent with paragraph (a)(8) of this section, NMFS may allocate any portion of the school BFT Angling category quota held in reserve for

inseason or annual adjustments to the Angling category.

* * * * *

(10) * * *
(iii) Regardless of the estimated landings in any year, NMFS may adjust the annual school BFT quota to ensure that the average take of school BFT over each 2-consecutive-year period

beginning in the 2009 fishing year does not exceed 10 percent by weight of the total annual U.S. BFT quota, inclusive of the allocation specified in paragraph (a)(3) of this section, for that period.

* * * * *

[FR Doc. E9-3412 Filed 2-17-09; 8:45 am]

BILLING CODE 3510-22-S

Notices

Federal Register

Vol. 74, No. 31

Wednesday, February 18, 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

Federal Register Notice

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 on Friday, February 20, 2009. The meeting will be held in the Congressional Members Room in the Thomas Jefferson Building of the Library of Congress, 10 First Street, SE., 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. Report of the Expert Panel on the Structure of the Federal Preservation Program

V. Preserve America Program Implementation

A. Overview of Achievements since 2003

B. Preserve America Summit Implementation

C. Preserve America/Save America's Treasures Authorizing Legislation

VI. Transition Activities

VII. Historic Preservation and the Economic Stimulus Package

VIII. Preservation Initiatives Committee

- A. Economic Benefits of Preservation Study

IX. Federal Agency Programs Committee

A. Section 3 Report to the President

B. Bureau of Land Management Nationwide Programmatic Agreement

C. Federal Communications Commission Section 106 E-Filing System

D. Section 106 Case Updates

X. Communications, Education, and Outreach Committee

A. Service Learning Initiative

XI. Chairman's Report

A. ACHP Alumni Foundation

B. ACHP FY 2009 Appropriationl FY 2010 Budget Estimates

XII. Executive Director's Report

A. Staff Changes and Recruitment

XIII. New Business

XIV. 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: February 6, 2009.

John Fowler,

Executive Director.

[FR Doc. E9-3179 Filed 2-17-09; 8:45 am]

BILLING CODE 4310-K6-M

DEPARTMENT OF AGRICULTURE

Forest Service

Ochoco National Forest, Lookout Mountain Ranger District; Oregon; Big Summit Allotment Management Plan EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Ochoco National Forest is preparing an environmental impact statement (EIS) to analyze the effects of changing grazing management in five grazing allotments on the Lookout Mountain Ranger District. These five allotments are: Big Summit, Pringle, Brush Creek, Lost Horse and North Fork. The proposed action will reauthorize term grazing permits, make rangeland improvements, manage livestock use and distribution to facilitate the improvement of riparian conditions, including streambank stability, riparian vegetation, and water temperature, and will conduct riparian restoration activities on some streams in the project area. These actions are needed to achieve and maintain consistency with the Ochoco National Forest Land and Resource Management Plan, as amended.

DATES: Comments concerning the scope of the analysis must be received by March 20, 2009. The draft environmental impact statement is expected to be completed and available for public comment in July 2009. The final environmental impact statement is expected to be completed in September 2009.

ADDRESSES: Send written comments to Bill Queen, District Ranger, Lookout Mountain District, Ochoco National Forest, 3160 NE Third Street, Prineville, Oregon 97754. Alternately, electronic comments may be sent to comments-pacificnorthwest-ochoco@fs.fed.us. Electronic comments must be submitted as part of the actual e-mail message, or as an attachment in plain text (.txt), Microsoft Word (.doc), rich text format (.rtf), or portable document format (.pdf).

FOR FURTHER INFORMATION CONTACT:

Marcy Boehme, Project Leader, at 3160 NE Third Street, Prineville, Oregon 97754, or at (541) 416-6463, or by e-mail at mboehme@fs.fed.us.

Responsible Official: The responsible official will be Jeff Walter, Forest Supervisor, Ochoco National Forest, 3160 NE Third Street, Prineville, Oregon 97754.

SUPPLEMENTARY INFORMATION:

Purpose and Need. The purpose of this proposal is to reauthorize livestock grazing consistent with Forest Plan standards and guidelines. There is a need to make range improvements and change livestock management to move towards desired conditions for stream shade and bank stability. Based on surveys many of the streams in the project area do not meet the desired condition for shade or bank stability. Livestock grazing is one of the factors that contribute to low levels of shade and unstable stream banks. Active riparian restoration activities will facilitate the achievement of the desired condition.

Proposed Action. The proposed action includes a variety of management strategies and activities, including active management of livestock, creation of riparian pastures, resting of some areas while riparian resources improve, implementation of deferred rotation grazing systems, implementation of rest rotation grazing systems, new water developments, relocation or improvement of existing water developments, creation of livestock enclosures around riparian areas and/or sensitive plant locations, protection of heritage resources, planting of riparian hardwoods, placing logs and rocks in and along stream channels, protection of riparian vegetation and streambanks, and temporary and permanent reductions in AUMs.

Issues. Preliminary issues identified include the potential effect of the proposed action on livestock grazing, on heritage resources, on the North Fork Crooked River Wild & Scenic corridor, on sensitive plants, and on the introduction and/or spread of invasive plants, as well as the cumulative effects of the proposed action where associated activities overlap with other management activities.

Comment. Public comments about this proposal are requested in order to assist in identifying issues, determine how to best manage the resources, and to focus the analysis. Comments received to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to

appeal the subsequent decision under 36 CFR parts 215 and 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

A draft EIS will be filed with the Environmental Protection Agency (EPA) and available for public review by July, 2009. The EPA will publish a Notice of Availability (NOA) of the draft EIS in the **Federal Register**. The final EIS is scheduled to be available September 2009. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions [*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978)]. Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts [*City of Angoon v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)]. Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS of the merits of the alternatives formulated and

discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. The Forest Service is the lead agency and the responsible official is the Forest Supervisor, Ochoco National Forest. The responsible official will decide whether and how to reissue grazing permits in the Big Summit, Pringle, Brush Creek, Lost Horse and North Fork allotments. The responsible official will also decide how to mitigate impacts of these actions and will determine when and how monitoring of effects will take place.

The Big Summit Allotment Management Plan decision and the reasons for the decision will be documented in the record of decision. That decision will be subject to Forest Service Appeal Regulations (35 CFR Part 215).

Dated: February 9, 2009.

William R. Queen,
District Ranger.

[FR Doc. E9-3275 Filed 2-17-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Ochoco National Forest, Lookout Mountain Ranger District; Oregon; Canyon Fuels and Vegetation Management Project EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Ochoco National Forest is preparing an environmental impact statement (EIS) to analyze the effects of managing fuels and vegetation within the 31,500-acre Canyon project area, which is approximately 20 miles east of Prineville, Oregon. The project area includes National Forest System lands in the Upper Ochoco Creek Watershed. The alternatives that will be analyzed include the proposed action, no action, and additional alternatives that respond to issues generated through the scoping process. The Ochoco National Forest will give notice of the full environmental analysis and decision making process so interested and affected people may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by March 20, 2009. The draft environmental impact statement is expected to be completed and available for public comment in September 2009. The final environmental impact statement is expected to be completed in December 2009.

ADDRESSES: Send written comments to Bill Queen, District Ranger, Lookout Mountain District, Ochoco National Forest, 3160 NE Third Street, Prineville, Oregon 97754. Alternately, electronic comments may be sent to comments-pacificnorthwest-ochoco@fs.fed.us. Electronic comments must be submitted as part of the actual e-mail message, or as an attachment in plain text (.txt), Microsoft Word (.doc), rich text format (.rtf), or portable document format (.pdf).

FOR FURTHER INFORMATION CONTACT: Rob Rawlings, Project Leader, or Marcy Boehme, Environmental Coordinator, at 3160 NE Third Street, Prineville, Oregon 97754, or at (541) 416-6500, or by e-mail at rrawlings@fs.fed.us or nboehrne@fs.fed.us. **Responsible Official:** The responsible official will be Jeff Walter, Forest Supervisor, Ochoco National Forest, 3160 NE., Third Street, Prineville, Oregon 97754.

SUPPLEMENTARY INFORMATION:

Purpose and Need. The Lookout Mountain Ranger District has determined that there is a need for fuels and vegetation management activities in the project area by comparing the existing condition to the desired conditions described in the Ochoco National Forest Land and Resource Management Plan. The existing condition of the Upper Ochoco Creek Watershed was evaluated in 2004 and documented in the Upper Ochoco Creek Watershed Analysis. Generally speaking, the Watershed Analysis determined that vegetation conditions in the watershed have departed from the historic condition in several ways. Important departures include changes in timber species compositions, a reduction in singlestratum late and old structured forest, an increased risk of large-scale loss of forest to wildfire, an increased risk of insect infestation and/or disease that can impact timber stands, and a decline in the condition of riparian vegetation.

The purpose and need for this proposal is to (1) Maintain and increase the abundance of late and old structure (LOS) stands; (2) reduce fuels and the potential for high-intensity wildfires; (3) maintain conditions that currently support low-intensity fires; (4) reduce the susceptibility of the landscape to

large-scale infestation by insects and disease; (5) enhance hardwood communities, such as aspen and cottonwood; (6) increase riparian vegetation and large tree structure in Riparian Habitat Conservation Areas (RHCA); and (7) increase earlyseral species composition.

Proposed Action. The proposed action includes a variety of management strategies and activities, including commercial thinning with follow-up precommercial thinning and/or slash treatment (4,859 acres), precommercial thinning with slash treatment (5,494 acres), juniper cutting with slash treatment (1,397 acres), hardwood and riparian vegetation treatment (236 acres), and underburning where no other treatments are proposed (1,989 acres). Implementation of the proposed action would require some connected actions; these include headcut repair and stream restoration at five locations, road construction (19.5 miles) and road reconstruction (13.2 miles).

Issues. Preliminary issues identified include the potential effect of the proposed action on wildlife habitat, water quality, fish habitat, visual quality, and recreational use. In addition, the team will analyze the cumulative effects of this proposed action where it overlaps with the effects of other activities.

Comment. Public comments about this proposal are requested in order to assist in identifying issues, determine how to best manage the resources, and to focus the analysis. Comments received to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 and 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without

name and address within a specified number of days.

A draft EIS will be filed with the Environmental Protection Agency (EPA) and available for public review by September, 2009. The EPA will publish a Notice of Availability (NOA) of the draft EIS in the **Federal Register**. The final EIS is scheduled to be available December, 2009.

The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions [*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978)]. Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts [*City of Angoon v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)]. Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS of the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. The Forest Service is the lead agency and the responsible official is the Forest Supervisor, Ochoco National Forest. The responsible official will decide whether and how to conduct fuels and vegetation management activities in the Canyon planning area. The responsible

official will also decide how to mitigate impacts of these actions and will determine when and how monitoring of effects will take place.

The Canyon Fuels and Vegetation Management Project decision and the reasons for the decision will be documented in the record of decision. That decision will be subject to Forest Service Appeal Regulations (35 CFR Part 215).

Dated: February 11, 2009.

William R. Queen,

District Ranger.

[FR Doc. E9-3363 Filed 2-17-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Fremont and Winema Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Fremont and Winema Resource Advisory Committee will meet in Klamath Falls, Oregon, for the purpose of evaluating and recommending resource management projects for funding in FY 2009, under the provisions of Title II of the Secure Rural Schools and Community Self-Determination Act of 2008 (Pub. L. 110-343).

DATES: The meeting will be held on March 30 and 31, 2009.

ADDRESSES: The meeting will take place at the Klamath Ranger District Office, 2819 Dahlia Street, Klamath Falls, OR 97601.

Send written comments to Fremont and Winema Resource Advisory Committee, c/o USDA Forest Service, 2819 Dahlia Street, Klamath Falls, OR 97601 or electronically to agowan@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Amy Gowan, Designated Federal Official, c/o Klamath Ranger District, 2819 Dahlia Street, Klamath Falls, OR 97601, telephone (541) 883-6741

SUPPLEMENTARY INFORMATION: The agenda will include a review of the 2008 legislation, consideration of Title II project proposals for FY 2009 submitted by the Forest Service, the public, and other agencies, presentations by project proponents, and final recommendations for funding of fiscal year 2009 projects.

All Fremont and Winema Resource Advisory Committee Meetings are open to the public. Public input and comment forum will take place in the afternoon

of March 31, 2009. Interested citizens are encouraged to attend.

Dated: February 11, 2009.

Amy Gowan,

Designated Federal Official.

[FR Doc. E9-3356 Filed 2-17-09; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Forest Service

Lake County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake County Resource Advisory Committee (RAC) will hold a meeting.

DATES: The meeting will be held on March 19, 2009, from 3 p.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Lake County Board of Supervisor's Chambers at 255 North Forbes Street, Lakeport, Room C.

FOR FURTHER INFORMATION CONTACT: Debbie McIntosh, Committee Coordinator, USDA, Mendocino National Forest, Upper Lake Ranger District, 10025 Elk Mountain Road, Upper Lake, CA 95485. (707) 275-2361; e-mail thncintosh@fs.fed.us.

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Roll Call/Establish Quorum; (2) Welcome and Introductions; (3) Review of Members New Legislation Information (4) Discuss Project Cost Accounting USFS/County of Lake; (7) Set Next Meeting Date; (8) Public Comment Period; Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time. (19) Adjourn.

Dated: February 9, 2009.

Lee D. Johnson,

Designated Federal Officer.

[FR Doc. E9-3326 Filed 2-17-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be having the routine monthly meeting along with the public forum. The meeting is being held pursuant to the authorities in the

Federal Advisory Committee Act (Pub. L. 110-343) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 110-343). The meeting is open to the public.

DATES: The meeting will be held on February 24, 2009, 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitterroot National Forest, Supervisor Office, 1801 N First Street, Hamilton, Montana. Send written comments to Daniel G Ritter, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777-7423, or electronically to dritter@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Daniel G. Ritter, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777-5461.

Dated: February 9, 2009.

Julie K. King,

Deputy Forest Supervisor.

[FR Doc. E9-3273 Filed 2-17-09; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Friday, February 20, 2009; 9:30 a.m.

PLACE: 624 Ninth Street, NW., Rm. 540, Washington, DC 20425.

Meeting Agenda

- I. Approval of Agenda.
- II. Approval of Minutes of December 12, 2008 and January 16, 2009 Meetings.
- III. Announcements.
- IV. Staff Director's Report.
- V. Management and Operations.
 - FY 2010 Budget Request
- VI. Program Planning.
 - Findings and Recommendations for Briefing Report on Department of Justice's Enforcement of Voting Rights in 2008 Presidential Election
 - Request To Extend the Public Comment Period for the Briefing on "Specifying English as the Common Language of the Workplace: Every Employer's Right or Violation of Federal Law?"
- VII. State Advisory Committee Issues.
 - Oklahoma SAC
- VIII. Future Agenda Items.
- IX. 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.

Dated: February 10, 2009.

David Blackwood,

General Counsel.

[FR Doc. E9-3177 Filed 2-17-09; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, as amended by Pub. L. 106-36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before March 10, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 3720.

Docket Number: 08-050. Applicant: University of Colorado, Department of Mechanical Engineering, 427 UCB, ECME 114, Boulder, CO 80309-0427. Instrument: Dual Beam FIB Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to fabricate micrometer/nanometer scale devices and test samples in the Nanomaterials Characterization Facility. Application accepted by Commissioner of Customs: September 25, 2008.

Docket Number: 08-051. Applicant: Lawrence Berkeley National Laboratory, One Cyclotron Road, MS: 937-0200, Berkeley, CA 94720. Instrument: Electron Microscope. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument will be used to develop a new class of electron imaging, down to resolution, which can provide new capabilities including an in-situ experimental stage. Application accepted by Commissioner of Customs: September 30, 2008.

Docket Number: 08-062. Applicant: Carnegie Mellon University, 5000 Forbes Avenue, Pittsburgh, PA 15213.

Instrument: Scanning Electron Microscope. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument is to be equipped with an orientation imaging system for the study of grain boundary energy on a wide range of materials, including metals, ceramics and semiconductors. Application accepted by Commissioner of Customs: January 14, 2009.

Dated: February 12, 2009.

Chris Cassel,

Acting Director, IA Subsidies Enforcement Office.

[FR Doc. E9-3406 Filed 2-17-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 0612242720-9119-02]

Availability of Grant Funds for Fiscal Year 2009; Correction

AGENCY: National Oceanic and Atmospheric Administration; Department of Commerce.

ACTION: Notice; Correction.

SUMMARY: The National Oceanic and Atmospheric Administration published a document in the **Federal Register** of January 2, 2009 entitled Availability of Grant Funds for Fiscal Year 2009. The information concerning the Coastal and Estuarine Land Conservation Program FY 2010 competition, which appears in the program listing for the National Ocean Service, contained a reference to an incorrect fiscal year. The correct fiscal year for the program is FY 2009.

DATES: As published in the January 2, 2009 **Federal Register**, applications must be received and validated by Grants.gov on or before 6 p.m. EST on March 31, 2009. Applications submitted through Grants.gov will have a date and time indication on them.

ADDRESSES: Applications may be submitted electronically through Grants.gov online at: <http://www.grants.gov> or by mailing an original and four copies of each proposal to Attn: Elaine Vaudreuil, NOAA, Ocean and Coastal Resource Management, National Policy and Evaluation Division (N/ORM7), 1305 East-West Highway, SSMC4, Station 10657, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Elaine Vaudreuil, Phone: (301) 713-3155 ext 103, e-mail: Elaine.Vaudreuil@noaa.gov.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of January 2, 2009 (74 FR 72, 82), the document entitled Availability of Grant Funds for Fiscal Year 2009 contained an error in the National Ocean Service's entry for its Coastal and Estuarine Land Conservation Program FY 2010 competition. The Funding Availability section of the solicitation incorrectly referenced FY 2010. This notice corrects this error. The forth sentence of the first paragraph of the "Funding Availability" section is corrected to read:

"The FY 2009 President's Request for the program is \$15 million."

All other information and requirements of the January 2, 2009 solicitation remain unchanged.

Administrative Procedure Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

Dated: February 10, 2009.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management.

[FR Doc. E9-3206 Filed 2-17-09; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Monterey Bay National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The ONMS is seeking applications for the following vacant seat on the Monterey Bay National Marine Sanctuary Advisory Council: Tourism alternate. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations;

philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary.

Applicants who are chosen as members should expect to serve until February 2011, pursuant to the council's Charter.

DATES: Applications are due by March 13, 2009.

ADDRESSES: Application kits may be obtained from Nicole Capps at the Monterey Bay National Marine Sanctuary, 299 Foam Street, Monterey, CA 93940. Completed applications should be sent to the same address. Application kits may also be obtained from the sanctuary's Web site at <http://montereybay.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Nicole Capps at (831) 647-4206, or nicole.capps@noaa.gov.

SUPPLEMENTARY INFORMATION: The MBNMS Advisory Council was established in March 1994 to assure continued public participation in the management of the Sanctuary. Since its establishment, the Advisory Council has played a vital role in decisions affecting the Sanctuary along the central California coast.

The Advisory Council's twenty voting members represent a variety of local user groups, as well as the general public, plus seven local, state and federal governmental jurisdictions. In addition, the respective managers or superintendents for the four California National Marine Sanctuaries (Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary and the Monterey Bay National Marine Sanctuary) and the Elkhorn Slough National Estuarine Research Reserve sit as non-voting members.

Four working groups support the Advisory Council: The Research Activity Panel ("RAP") chaired by the Research Representative, the Sanctuary Education Panel ("SEP") chaired by the Education Representative, the Conservation Working Group ("CWG") chaired by the Conservation Representative, and the Business and Tourism Activity Panel ("BTAP") chaired by the Business/Industry Representative, each dealing with matters concerning research, education, conservation and human use. The working groups are composed of experts from the appropriate fields of interest and meet monthly, or bi-monthly, serving as invaluable advisors to the Advisory Council and the Sanctuary Superintendent.

The Advisory Council represents the coordination link between the

Sanctuary and the state and federal management agencies, user groups, researchers, educators, policy makers, and other various groups that help to focus efforts and attention on the central California coastal and marine ecosystems.

The Advisory Council functions in an advisory capacity to the Sanctuary Superintendent and is instrumental in helping develop policies, program goals, and identify education, outreach, research, long-term monitoring, resource protection, and revenue enhancement priorities. The Advisory Council works in concert with the Sanctuary Superintendent by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Superintendent in achieving the goals of the Sanctuary program within the context of California's marine programs and policies.

Authority: 16 U.S.C. Sections 1431, *et seq.* (Federal Domestic Assistance catalog Number 11.429 Marine Sanctuary Program)

Dated: February 6, 2009.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E9-3203 Filed 2-17-09; 8:45 am]

BILLING CODE 3510-NK-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XL67

Incidental Takes of Marine Mammals During Specified Activities; On-ice Marine Geophysical and Seismic Operations in State/OCS Waters of the U.S. Beaufort Sea off Alaska

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

ACTION: Notice, withdrawal of an incidental take authorization application.

SUMMARY: Notice is hereby given that CGGVeritas Land, Inc. (Veritas) has withdrawn its application for an Incidental Harassment Authorization (IHA). The following action is related to a proposed IHA to Veritas for the take of small numbers of marine mammals, by Level B harassment only, incidental to conducting an on-ice marine geophysical research and seismic survey

in the U.S. Beaufort Sea off Alaska from February to May, 2009.

ADDRESSES: The documents and the application related to this action are available by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Ken Hollingshead, NMFS, 301-713-2289.

SUPPLEMENTARY INFORMATION: On October 6, 2008, NMFS received an application from Veritas requesting an IHA. The requested IHA was for an authorization to take, by Level B harassment, small numbers of ringed seals (*Phoca hispida*) incidental to conducting on-ice seismic surveys, north and northwest of Thetis Island in State/OCS waters in the Beaufort Sea. On February 9, 2008, NMFS accepted notice from Veritas withdrawing their IHA application for the proposed action. During a recent aerial survey, Veritas found that unsafe ice conditions were present and concluded that such conditions are unsuitable for the on-ice seismic survey operations presented in the IHA application package. The energy source for the proposed activity was Vibroseis. Data acquisition would have begun mid-February and continued until the end of May.

Dated: February 11, 2009.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9-3419 Filed 2-17-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XN34

Taking and Importing Marine Mammals; U.S. Navy's Atlantic Fleet Active Sonar Training (AFAST)

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice; issuance of a letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that a 1-year letter of authorization (LOA) has been issued to the U.S. Navy (Navy) for the incidental take of marine mammals during the Navy's Atlantic Fleet Active Sonar Training (AFAST) activities conducted off the Atlantic Coast and in the Gulf of Mexico. These activities are considered military readiness activities pursuant to the Marine Mammal Protection Act (MMPA), as amended by the National Defense Authorization Act of 2004 (NDAA).

DATES: Effective January 22, 2009, through January 21, 2010.

ADDRESSES: The LOA and supporting documentation are available by writing to Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, by telephoning one of the contacts listed here (**FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS.

SUPPLEMENTARY INFORMATION:**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) during periods of not more than five consecutive years each if certain findings are made and regulations are issued or, if the taking is limited to harassment and of no more than 1 year, the Secretary shall issue a notice of proposed authorization for public review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as:

an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The NDAA (Public Law 108–136) removed the "small numbers" and "specified geographical region" limitations and amended the definition of "harassment" as it applies to a "military readiness activity" to read as follows (Section 3(18)(B) of the MMPA):

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On February 4, 2008, NMFS received an application from the Navy requesting authorization for the take of 40 species of marine mammals incidental to upcoming Navy AFAST activities, including training, maintenance, and research, development, testing, and evaluation (RDT&E), to be conducted within the AFAST Study Area, which extends east from the Atlantic Coast of the U.S. to 45° W. long. and south from the Atlantic and Gulf of Mexico Coasts to approximately 23° N. lat., but not encompassing the Bahamas (see Figure 1.1 in the Navy's Application), over the course of 5 years. These activities are classified as military readiness activities. These activities may incidentally take marine mammals present within the AFAST Study Area by exposing them to sound from mid-frequency or high frequency active sonar (MFAS/HFAS) or to underwater detonations at levels that NMFS associates with the take of marine mammals. The Navy requested authorization to take individuals of 40 species of marine mammals by Level B Harassment. Further, though they do not anticipate it to occur, the Navy requested authorization to take, by injury or mortality, up to 10 individual

beaked whales over the course of the 5-year regulations.

Authorization

On January 22, 2009, NMFS' final rule governing the take of marine mammals incidental to the Navy's AFAST activities became effective. In accordance with the final rule, NMFS issued an LOA to the Navy on January 22, 2009, authorizing Level B harassment of 40 species of marine mammals and mortality of 10 individual beaked whales incidental to U.S. Navy training, maintenance, and RDT&E activities in the AFAST Study Area. Issuance of this LOA is based on findings, described in the preamble to the final rule (74 FR 4844, January 27, 2009), that the taking resulting from the activities described in this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses. The LOA describes the permissible methods of taking and includes requirements pertaining to the mitigation, monitoring and reporting of such taking.

Dated: February 11, 2009.

P. Michael Payne,

Chief, Permits, Conservation, and Recreation, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–3413 Filed 2–17–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XN35

Taking and Importing Marine Mammals; U.S. Navy Training in the Southern California Range Complex

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice; issuance of a letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that a 1-year letter of authorization (LOA) has been issued to the U.S. Navy (Navy) for the incidental take of marine mammals during training, maintenance, and research, development, testing, and evaluation (RDT&E) activities conducted within the Navy's Southern California (SOCAL) Range Complex. These activities are considered military readiness activities pursuant to the

Marine Mammal Protection Act (MMPA), as amended by the National Defense Authorization Act of 2004 (NDAA).

DATES: Effective January 22, 2009, through January 21, 2010.

ADDRESSES: The LOA and supporting documentation are available by writing to Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, by telephoning one of the contacts listed here (**FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) during periods of not more than five consecutive years each if certain findings are made and regulations are issued or, if the taking is limited to harassment and of no more than 1 year, the Secretary shall issue a notice of proposed authorization for public review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as:

an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The NDAA (Public Law 108–136) removed the “small numbers” and “specified geographical region” limitations and amended the definition of “harassment” as it applies to a “military readiness activity” to read as follows (Section 3(18)(B) of the MMPA):

(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing

disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On April 1, 2008, NMFS received an application from the Navy requesting authorization for the take of 37 species of marine mammals incidental to upcoming Navy training activities to be conducted within the SOCAL Range complex, which extends southwest approximately 600 nm in the general shape of a 200–nm wide rectangle (see the Navy’s application), over the course of 5 years. These training activities are classified as military readiness activities. These training activities may incidentally take marine mammals present within the SOCAL Range Complex by exposing them to sound from mid-frequency or high frequency active sonar (MFAS/HFAS) or to underwater detonations at levels that NMFS associates with the take of marine mammals. The Navy requested authorization to take individuals of 37 species of marine mammals by Level B Harassment. Further, though they do not anticipate it to occur, the Navy requested authorization to take, by injury or mortality, up to 10 individual beaked whales over the course of the 5–year regulations.

Authorization

On January 14, 2009, NMFS’ final rule governing the take of marine mammals incidental to U.S. Navy Training in the SOCAL Range Complex became effective. In accordance with the final rule, NMFS issued an LOA to the Navy on January 22, 2009, authorizing Level B harassment of 37 species of marine mammals and mortality of 10 individual beaked whales incidental to U.S. Navy training, maintenance, and RDT&E activities in the SOCAL Range Complex. Issuance of this LOA is based on findings, described in the preamble to the final rule (74 FR 3882, January 21, 2009), that the taking resulting from the activities described in this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses. The LOA describes the permissible methods of taking and includes requirements pertaining to the mitigation, monitoring and reporting of such taking.

Dated: February 11, 2009.

P. Michael Payne,

Chief, Permits, Conservation, and Recreation, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–3436 Filed 2–17–09; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF EDUCATION

Office of Innovation and Improvement; Overview Information: Charter School Programs; Notice reopening fiscal year (FY) 2009 competition for Charter School Programs

Catalog of Federal Domestic Assistance (CFDA) Number: 84.282A.

SUMMARY: On December 15, 2008, we published in the **Federal Register** (73 FR 76014) a notice inviting applications for new awards for FY 2009 for the Charter School Programs (CSP). The original notice for the FY 2009 CSP competition established a January 29, 2009, deadline date for eligible applicants to apply for funding under this program. For this competition, applicants are required to submit their applications electronically through the Governmentwide Grants.gov site (www.Grants.gov). Grants.gov experienced a substantial increase in application submissions that resulted in system slowness on the deadline date. For this reason we are reopening and establishing new deadline dates for the FY 2009 competition for CSP. Applicants must refer to the notice inviting applications for new awards that was published in the **Federal Register** on December 15, 2009 (73 FR 76014) for all other requirements concerning this reopened competition. The new deadline dates are:

Deadline for Transmittal of Applications: February 25, 2009.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, please refer to section IV. 6. *Other Submission Requirements* in the December 15, 2008, notice (73 FR 76016).

Note: For all applicants submitting a new application in accordance with this notice, please note that you must use the current application package posted on Grants.gov. That is, Grants.gov will reject any submission from the earlier application package, which was available on Grants.gov through the original application deadline of January 29, 2009.

Deadline for Intergovernmental Review: April 27, 2009.

FOR FURTHER INFORMATION CONTACT:

Leslie Hankerson or Jeanne Siegel, U.S. Department of Education, 400 Maryland Avenue, SW., room 4W249, Washington, DC 20202-5970. Telephone: (202) 205-8524 or (202) 205-5482, or by e-mail: Leslie.Hankerson@ed.gov or Jeanne.Siegel@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.

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 either program contact person listed in this section.

SUPPLEMENTARY INFORMATION: Any eligible applicant may apply for funding under this program by the deadline date established in this notice. Eligible applicants that submitted their applications for the CSP FY 2009 competition to the Department before the competition's original deadline date of January 29, 2009, 4:30:00 p.m., Washington, DC time, are not required to resubmit their applications or re-apply in order to be considered for FY 2009 awards under this program. We encourage eligible applicants to submit their applications as soon as possible to avoid any problems with submitting electronic applications on the deadline date. The deadline for submission of applications will not be extended any further.

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: 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: www.gpoaccess.gov/nara/index.html.

Delegation of Authority: The Secretary of Education has delegated authority to Margo Anderson, Associate Assistant Deputy Secretary for Innovation and Improvement to perform the functions of the Assistant Deputy Secretary for Innovation and Improvement.

Dated: February 12, 2009.

Margo Anderson,

Associate Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. E9-3407 Filed 2-17-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education Overview Information; Impact Aid Discretionary Construction Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.041C.

DATES: *Applications Available:* February 18, 2009.

Deadline for Transmittal of Applications: March 20, 2009.

Deadline for Intergovernmental Review: May 19, 2009.

Full Text of Announcement**I. Funding Opportunity Description**

Purpose of Program: The Impact Aid Discretionary Construction Grant Program provides grants for emergency repairs and modernization of school facilities to certain eligible local educational agencies (LEAs) that receive formula Impact Aid funds.

Priority: In this notice, the Secretary is soliciting applications only for Priority 1 emergency repair grants. We will not accept applications for Priority 2 emergency repair or modernization grants at this time. In accordance with 34 CFR 75.105(b)(2)(ii) and (iv), this priority is from section 8007(b)(2)(A) of the Elementary and Secondary Education Act of 1965, as amended (Act) (20 U.S.C. 7707(b)), and the regulations for this program in 34 CFR 222.177.

Absolute Priority: For FY 2009, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is: Priority 1 emergency repair grants. An LEA is eligible to apply for an emergency grant under the first priority of section 8007(b) of the Act if it—

(a) Is eligible to receive formula construction funds for the fiscal year under section 8007(a) of the Act (20 U.S.C. 7707(a));

(b)(1) Has no practical capacity to issue bonds;

(2) Has minimal capacity to issue bonds and has used at least 75 percent of its bond limit; or

(3) Is eligible to receive funds for the fiscal year for heavily impacted districts

under section 8003(b)(2) of the Act (20 U.S.C. 7707(b)(2)); and

(c) Has a school facility emergency that the Secretary has determined poses a health or safety hazard to students and school personnel.

Note: For each of the FYs 2002, 2003, 2004, and 2005 competitions under this program, the amounts requested by applicants for Priority 1 grants exceeded the funds available.

Program Authority: 20 U.S.C. 7707(b).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75 (except for 34 CFR 75.600 through 75.617), 77, 79, 80, 82, 84, 85, 97, 98, and 99. (b) The regulations for this program in 34 CFR part 222.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds: \$17,500,000.

Estimated Range of Awards: \$50,000–\$5,000,000.

Estimated Average Size of Awards: \$1,500,000.

Estimated Number of Awards: 11.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months. We will determine each project period based on the nature of the project proposed and the time needed to complete the project. We will specify this period in the grant award document.

III. Eligibility Information

1. *Eligible Applicants:* To be eligible for an emergency repair grant, an LEA must enroll a high percentage (at least 40 percent) of federally connected children in average daily attendance (ADA) who reside on Indian lands or who have a parent on active duty in the U.S. uniformed services, have a school that enrolls a high percentage of one of these types of students, be eligible for funding for heavily impacted LEAs under section 8003(b)(2) of the Act, or meet the specific numeric requirements regarding bonding capacity. In making emergency grant awards, the Secretary must also consider the LEA's total assessed value of real property that may be taxed for school purposes, its use of available bonding capacity, and the nature and severity of the school facility emergency.

2.a. *Cost Sharing or Matching:* See 20 U.S.C. 7707(b)(5) and 34 CFR 222.174

and 222.191 through 222.193. In reviewing proposed awards, the Secretary considers the funds available to the grantee from other sources, including local, State, and other Federal funds. Consistent with 34 CFR 222.192, applicants will be required to submit financial reports for FYs 2006, 2007, and 2008, showing closing balances for all school funds. If significant amounts are available at the close of FY 2008 that are not obligated for other purposes, those funds will be considered as available for the proposed emergency repair project, which may reduce or eliminate the award for an emergency grant.

b. *Supplement-Not-Supplant*: As outlined in 34 CFR 222.174, grants made under this program are subject to supplement, not supplant funding provisions. Grant funds under this program may not be used to supplant or replace other available non-Federal construction money.

IV. Application and Submission Information

1. *Address to Request Application Package*: An electronic application is available at: <http://e-grants.ed.gov>. For assistance, please contact Kristen Walls-Rivas, Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C155, Washington, DC 20202-6244. FAX: 1-866-799-1272.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

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 program.

Page Limit: We strongly recommend that applicants limit their responses in each applicable narrative section to two pages.

3. *Submission Dates and Times*: *Applications Available*: February 18, 2009.

Deadline for Transmittal of Applications: March 20, 2009.

Applications for grants under this competition must be submitted electronically using the Electronic Grant 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* of this notice.

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 of this notice.

Deadline for Intergovernmental Review: May 19, 2009.

4. *Intergovernmental Review*: This program 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 program.

5. *Funding Restrictions*: Except for applicants with no practical capacity to issue bonds, as defined in 34 CFR 222.176, an eligible applicant's award amount may not be more than 50 percent of the total cost of an approved project and may not exceed four million dollars during any four-year period. See 34 CFR 222.193. While applicants may submit multiple applications, the Department may limit awards for a single applicant based on factors specified in 34 CFR 75.217, including the applicant's performance and use of funds under a prior award. Unallowable costs are specified in 34 CFR 222.173. Grant recipients must, in accordance with Federal, State and local laws, use emergency grants for permissible construction activities at public elementary and secondary school facilities. The scope of a selected facilities project will be identified as part of the final grant award conditions. A grantee must also ensure that its construction expenditures under this program meet the requirements of 34 CFR 222.172 (allowable program activities) and 34 CFR 222.173 (prohibited activities).

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of 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 Impact Aid Discretionary Construction Grant Program, CFDA number 84.041C,

must be submitted electronically using the e-Application system available through the Department's e-Grants system, accessible through the 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. The e-Application system 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 regular 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 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, for maintenance. 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 Discretionary Construction Program under Section 8007(b) and all necessary assurances and certifications. Cover pages, assurances, and certifications may be sent either by facsimile or by e-mail. All

additional narrative documents must be attached to the 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 or e-mail a signed copy of the cover pages, assurances, and the emergency certification form for the Application for Discretionary Construction Program under Section 8007(b) to the Impact Aid Program after following these steps:
 - (1) Print a copy of the application from e-Application for your records.
 - (2) Have the applicant's Authorized Representative, date and sign the cover page and all of the assurance pages. The local certifying official must sign the certification for an emergency application.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the Application for Discretionary Construction Program under Section 8007(b).

(4) Fax or e-mail the signed cover page, certification, and assurances for the Discretionary Construction Program under Section 8007(b) to the Impact Aid Program at 1-866-799-1272 or by e-mail to Impact.Aid@ed.gov.

• 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 System Unavailability:

If you are prevented from electronically submitting your application on the application deadline date because the e-Application system 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) The e-Application system 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) The e-Application system 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 the e-Application system 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 the Department's e-Application system.

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 the Department's e-Application system; 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 prevent 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: Kristen Walls-Rivas, Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3C155, Washington, DC 20202-6244. FAX: 1-866-799-1272.

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, Impact Aid Program, Attention: (CFDA Number 84.041C), Room 3C155, 400 Maryland Avenue, SW., Washington, DC 20202-6244.

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, or
- (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, or
- (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, Impact Aid Program, Attention: (CFDA Number 84.041C), Room 3C155, 400 Maryland Avenue, SW., Washington, DC 20202-6244.

The Impact Aid Program 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—if not provided by the Department—the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and
- (2) The Impact Aid Program 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 Impact Aid Program at (202) 260-3858.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 20 U.S.C. 7707(b)(4) and (b)(6), and are further clarified in 34 CFR 222.183 and 222.187 and described in the following paragraphs. The Secretary gives distinct weight to the listed selection criteria. The maximum score for each criterion is indicated in parentheses. Within each criterion, the Secretary evaluates each factor equally, unless otherwise specified. The maximum score that an application may receive is 100 points.

(1) Need for project/severity of the school facility problem to be addressed by the proposed project. (up to 30 points)

(a) Justification that the proposed project will address a valid emergency, and consistency of the emergency description and the proposed project with the certifying local official's statement.

(b) Impact of the emergency condition on the health and safety of the building occupants or on program delivery. Applicants should describe the systems or areas of the facility involved, e.g., HVAC, roof, floor, windows; the type of space affected, such as instructional, resource, food service, recreational, general support, or other areas; the percentage of building occupants affected by the emergency; and the importance of the facility or affected area to the instructional program.

(2) Project urgency. (up to 28 points)

(a) Risk to occupants if the facility condition is not addressed. Applicants should describe projected increased future costs; the anticipated effect of the proposed project on the useful life of the facility or the need for major construction; and the age and condition of the facility and date of last renovation of affected areas.

(b) The justification for rebuilding, if proposed.

(3) Effects of Federal presence. (up to 30 points total)

(a) Amount of non-taxable Federal property in the applicant LEA (percentage of Federal property divided by 10); (up to 10 points)

(b) The number of federally connected children identified in section 8003(a)(1)(A), (B), (C), and (D) of the Act in the LEA (percentage of identified children in LEA divided by 10); (up to 10 points)

(c) The number of federally connected children identified in section

8003(a)(1)(A), (B), (C), and (D) of the Act in the school facility (percentage of identified children in school facility divided by 10); (up to 10 points)

(4) Ability to respond or pay. (up to 12 points total)

(a) The percentage an LEA has used of its bonding capacity. Four points will be distributed based on this percentage so that an LEA that has used 100 percent of its bonding capacity receives all four points and an LEA that has used less than 25 percent of its bond limit receives only one point. LEAs that do not have limits on bonded indebtedness established by their States will be evaluated by assuming that their bond limit is 10 percent of the assessed value of real property in the LEA. LEAs deemed to have no practical capacity to issue bonds will receive all four points. (up to four points)

(b) Assessed value of real property per student (Applicant LEA's total assessed valuation of real property per pupil as a percentile ranking of all LEAs in the State). Points will be distributed by providing all four points to LEAs in the State's poorest quartile and only one point to LEAs in the State's wealthiest quartile. (up to four points)

(c) Total tax rate for capital or school purposes (Applicant LEA's tax rate for capital or school purposes as a percentile ranking of all LEAs in the State). If the State authorizes a tax rate for capital expenditures, then these data must be used; otherwise, data on the total tax rate for school purposes are used. Points will be distributed by providing all four points to LEAs in the State's highest-taxing quartile and only one point to LEAs in the State's lowest-taxing quartile. (up to four points)

2. Review and Selection Process:

Upon receipt, Impact Aid program staff will screen all applications to eliminate any applications that do not meet the eligibility standards, are incomplete, or are late. Program staff will also calculate the scores for each application under criteria (3) and (4). Panel reviewers will assess the applications under criteria (1) and (2).

(a) Applications are ranked based on the total number of points received during the review process. Those with the highest scores will be at the top of the funding slate.

(b) While applicants may submit multiple applications, the Department may limit awards for a single applicant based on factors specified in 34 CFR 75.217, including the applicant's performance and use of funds under a prior award.

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 and 34 CFR 222.195. In general, grantees must comply with applicable reporting requirements in 34 CFR parts 75 and 80. In addition, grantees will be required to provide periodic performance and financial reports, as specified in individual grant award conditions and 34 CFR 222.195. 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 Department has established the following performance measure for this program: an increasing percentage of LEAs receiving Impact Aid Construction funds will report that the overall condition of their school buildings is adequate. Data for this measure will be reported to the Department on Table 10 of the application for Impact Aid Section 8003 Basic Support Payments.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT:

Kristen Walls-Rivas, Impact Aid Program, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C155, Washington, DC 20202-6244. Telephone: (202) 260-3858 or by e-mail: Impact.Aid@ed.gov.

If you use a TDD, call the 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) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

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 authority to Joseph C. Conaty, Director, Academic Improvement and Teacher Quality Programs for the Office of Elementary and Secondary Education to perform the functions of the Assistant Secretary for Elementary and Secondary Education.

Dated: February 12, 2009.

Joseph C. Conaty,

Director, Academic Improvement and Teacher Quality Programs.

[FR Doc. E9-3405 Filed 2-17-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Notice of Intent to Prepare an Environmental Impact Statement for a Proposed Federal Loan Guarantee To Support Construction of the TX Energy, LLC, Industrial Gasification Facility Near Beaumont, TX

AGENCY: Department of Energy.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting, and Notice of Proposed Floodplain and Wetland Involvement.

SUMMARY: The U.S. Department of Energy (DOE) announces its intent to

prepare an environmental impact statement (EIS) pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR Parts 1500-1508), and the DOE NEPA implementing procedures (10 CFR Part 1021) to assess the potential environmental impacts for its proposed action of issuing a Federal loan guarantee to TX Energy, LLC (TXE) (DOE/EIS-0412). TXE submitted an application to DOE under the Federal loan guarantee program pursuant to the Energy Policy Act of 2005 (EPA 2005) to support construction of the TXE Industrial Gasification Facility near Beaumont, Texas (the Facility).¹

TXE is a subsidiary of Eastman Chemical Company (Eastman) and proposes to develop the Facility on a 417-acre parcel of land. The Facility would utilize gasification technology with petroleum coke (petcoke) as the feedstock to produce synthesis gas (a mixture of carbon monoxide (CO) and hydrogen (H₂) commonly referred to as syngas) and molten sulfur. The majority of the carbon dioxide (CO₂) produced from clean-up of the raw syngas would be captured and transferred from the Facility via a newly constructed pipeline spur (no longer than 2 miles) to a new pipeline for use in enhanced oil recovery (EOR); CO₂ not captured would be vented. A portion of the syngas would be processed further to produce pure H₂, the majority of which would be sold via a newly constructed pipeline. The balance of the syngas and a portion of the H₂ would be piped to a nearby, existing plant via two separate newly constructed 1.5-mile pipelines for processing to methanol and ammonia that would be sold or used by Eastman, the plant owner.

The EIS will evaluate the potential impacts of TXE's proposed project and the range of reasonable alternatives. The purpose of this Notice of Intent is to inform the public about DOE's proposed action; invite public participation in the EIS process; announce plans for a public scoping meeting; and solicit public comments for consideration in establishing the scope and content of the EIS. DOE invites those agencies with jurisdiction by law or special expertise to be cooperating agencies.

The site of the proposed Facility contains floodplains and wetlands, and the footprint of the TXE proposed Facility would affect approximately 52 acres of wetlands and potentially some

¹ The amount requested for the loan guarantee is not being disclosed at this time because it is business sensitive. Moreover, should DOE approve a loan guarantee, the amount may differ from the original request.

floodplains. Therefore, DOE hereby gives notice that it will include in the EIS a floodplain and wetland assessment prepared in accordance with the DOE Regulations for Compliance with Floodplain and Wetland Environmental Review Requirements (10 CFR Part 1022).

DATES: To ensure that all of the issues related to this proposal are addressed, DOE invites comments on the proposed scope and content of the EIS from all interested parties. Comments must be postmarked, e-mailed, or faxed by March 20, 2009 to ensure consideration. Late comments will be considered to the extent practicable. In addition to receiving written comments (see **ADDRESSES** below), DOE will conduct a public scoping meeting in which government agencies, private-sector organizations, and the general public are invited to provide comments or suggestions with regard to the alternatives and potential impacts to be considered in the EIS. The public scoping meeting will be held from 5 p.m. to 9 p.m. on March 5, 2009, at the Beaumont Civic Center Complex, 701 Main St., Beaumont, Texas (see Public Scoping Process below).

ADDRESSES: Written comments on the proposed EIS scope and questions regarding the public scoping meeting should be addressed to: Sharon R. Thomas, Loan Guarantee Program Office (CF-1.3), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Electronic submission of comments is encouraged due to processing time required for regular mail. Comments can be submitted electronically to Ms. Thomas by fax: 202-586-4052; or electronic mail: Sharon.R.Thomas@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT: To obtain additional information about the TXE project or this EIS or to receive a copy of the draft EIS when it is issued, contact Ms. Thomas by telephone: 202-586-5335; toll-free number: 1-800-832-0885; or electronic mail: Sharon.R.Thomas@hq.doe.gov. For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC-20), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone: 202-586-4600; facsimile: 202-586-7031; electronic mail: askNEPA@hq.doe.gov; or leave a toll-free message at 1-800-472-2756.

SUPPLEMENTARY INFORMATION:

Background

EPAAct 2005 established a Federal loan guarantee program for eligible energy projects that employ innovative technologies. Title XVII of EPAAct 2005 authorizes the Secretary of Energy to make loan guarantees for a variety of types of projects, including those that “avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.” The two principal goals of the loan guarantee program are to encourage commercial use in the United States of new or significantly improved energy-related technologies and to achieve substantial environmental benefits.

Purpose and Need for Agency Action

TXE submitted an application to DOE for a loan guarantee on November 18, 2008, to support construction of the Facility. The purpose and need for agency action is to comply with DOE’s mandate under EPAAct 2005 by identifying eligible projects that meet the goals of the Act and therefore to determine whether to issue a loan guarantee to TXE to support construction of the proposed Facility.

Proposed Action

DOE’s proposed action is to issue a loan guarantee to TXE to support construction of the TXE proposed Facility. The Facility would utilize gasification technology with petcoke as the feedstock to produce syngas (a mixture of CO and H₂) and molten sulfur. The Facility is being designed to handle the following inputs: 2.4 million tons of petcoke per year; 120,000 tons of fluxant (a blend of sand and stone) per year; 2.4 million tons of oxygen per year; and 7 billion gallons of water per year. Although not proposed by TXE, coal could also be used as an alternate feedstock. The oxygen required for gasification would be provided by air separation units (ASUs) adjacent to the Facility and owned by another entity. DOE plans to analyze construction and operation of the ASUs in the EIS as a connected action.

The Facility is being designed to produce 150 billion standard cubic feet of syngas per year. Molten sulfur byproduct (150,000 tons per year) would be sold. A portion of the syngas would be used to produce 261 million standard cubic feet of H₂ per year. The majority of the H₂ would be sold for use in the petroleum refining industry and transferred via a newly constructed

pipeline. Cleaning of the raw syngas would be done using Rectisol® Acid Gas Removal technology, licensed from Lurgi, and would produce 5.4 million tons of CO₂ per year. TXE anticipates that less than 12 percent of the CO₂ produced annually under normal operations would be vented and not captured. The captured CO₂ would be transferred via a newly constructed pipeline spur (no longer than 2 miles) to a new pipeline for use in EOR.

The balance of the syngas and a portion of the H₂ would be piped via two newly constructed, separate 1.5-mile pipelines to an existing plant owned by Eastman for processing to methanol and ammonia, which would be sold or used by Eastman. DOE plans to analyze the modification and operation of this plant, which is adjacent to the site, as a connected action. The Facility would also include an onsite wastewater treatment plant. Solid waste (slag) from the process would be either sold as a commercial product (e.g., an aggregate substitute) or transported by truck for disposal at a non-hazardous, solid waste landfill. The construction work force would peak at a range of 2000 to 2500 workers. The Facility would be operated and maintained by a staff of approximately 250 employees.

The site of the proposed Facility consists of a 417-acre parcel of land located at 6275 Highway 347 in Jefferson County, Texas, adjacent to the southeast city limits of Beaumont. Construction laydown and parking areas are estimated to use approximately 150 acres. This includes 100 acres leased from the owner of the adjacent facility to the south and an additional 50 acres of land located at and adjacent to the existing Eastman plant.

The site includes a combination of previously developed and undeveloped parcels and is bound by transportation land use (Ohio Street, TX-347W, U.S. 69/287/97, and Martin Luther King Jr. Parkway (US 380)) to the west and southwest and the Neches River to the east and northeast. The Neches River forms the eastern site boundary. The site is topographically flat and consists primarily of urban land cover resulting from historical industrial land uses. Land use around the perimeter of the site consists of early-successional and invasive herbaceous, scrub shrub, and tree species; wetland complexes; and open water habitat associated with the Neches River. The vicinity of the subject property consists of industrial, bulk storage, agricultural, commercial, and residential uses. The region is characterized by land uses traditionally associated with industrial chemical

production (e.g., petroleum products, methanol, sulfur products), barge traffic, ports, and associated off-loading facilities.

The site of the proposed Facility contains floodplains and wetlands, and the footprint of the TXE proposed Facility would affect approximately 52 acres of wetlands and potentially some floodplains. These wetlands include a combination of emergent marsh, scrub shrub, and bottomland hardwood. The eastern and northeastern portions of the site (the areas nearest the Neches River) are located within the 100-year floodplain. DOE will prepare a floodplain and wetland assessment in accordance with its regulations at 10 CFR Part 1022 and include the assessment in the EIS.

Alternatives

In determining the range of reasonable alternatives to be considered in the EIS for the proposed TXE Facility, DOE identified the reasonable alternatives that would satisfy the underlying purpose and need for agency action. DOE currently plans to analyze in detail the project as proposed by TXE; subalternatives for coal as a feedstock, solid waste disposal, and CO₂ disposition; and the no action alternative. DOE will also analyze mitigation measures as appropriate.

DOE will describe TXE’s site selection process in the EIS; however, DOE does not plan to analyze in detail alternative sites considered by TXE in its site selection process. Key factors considered by TXE in selecting the site included the region’s strong petroleum refining base, which provides a source for petcoke, a market for H₂, and near-term EOR opportunities; the nearby plant that would use the syngas product for the production of methanol and ammonia; and the proximity to infrastructure and surface water. On this basis, DOE believes at this time that there are no other reasonable siting alternatives.

Under the no action alternative, DOE would not provide the loan guarantee for the TXE project. This option would not contribute to the Federal loan guarantee program goals to make loan guarantees for energy projects that “avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and employ new or significantly improved technologies.”

Preliminary Identification of Environmental Issues

The following environmental resource areas have been tentatively identified for consideration in the EIS. This list is neither intended to be all-inclusive nor

a predetermined set of potential environmental impacts. DOE invites comments on whether other resource areas or potential issues should be considered in the EIS:

- Air quality
- Greenhouse gas emissions and climate change
- Energy use and production
- Water resources, including groundwater and surface waters
- Wetlands and floodplains
- Geological resources
- Ecological resources, including threatened and endangered species and species of special concern
- Cultural resources, including historic structures and properties; sites of religious and cultural significance to tribes; and archaeological resources
- Land use
- Visual resources and aesthetics
- Transportation and traffic
- Noise and vibration
- Hazardous materials and solid waste management
- Human health and safety
- Accidents and terrorism
- Socioeconomics, including impacts to community services
- Environmental justice

Public Scoping Process

To ensure that all issues related to DOE's proposed action are addressed, DOE seeks public input to define the scope of the EIS. The public scoping period will begin with publication of the NOI and end on March 20, 2009. Interested government agencies, private-sector organizations, and the general public are encouraged to submit comments concerning the content of the EIS, issues and impacts to be addressed in the EIS, and alternatives that should be considered. Scoping comments should clearly describe specific issues

or topics that the EIS should address to assist DOE in identifying significant issues. Comments must be postmarked, e-mailed, or faxed by March 20, 2009 to ensure consideration. (See **ADDRESSES**). Late comments will be considered to the extent practicable. DOE invites those agencies with jurisdiction by law or special expertise to be cooperating agencies.

A public scoping meeting will be held on March 5, 2009, from 5 p.m. to 9 p.m. at the Beaumont Civic Center Complex, 701 Main St, Beaumont, Texas. Members of the public and representatives of groups and Federal, state, local, and tribal agencies are invited to attend. An informal session at this location will begin at 5 p.m., followed by the opportunity to present oral comments at 7 p.m. Displays and other forms of information about the proposed agency action, the EIS process, and the TXE proposed Facility will be available, with DOE personnel available for discussions with attendees. DOE requests that anyone who wishes to present oral comments at the meeting contact Ms. Sharon R. Thomas by phone, fax, or e-mail (see **ADDRESSES**). Individuals who do not make advance arrangements to speak may register at the meeting. Speakers who need more than five minutes should indicate the length of time desired in their request. DOE may need to limit speakers to five minutes initially, but will provide additional opportunities as time permits. Written comments regarding the scoping process can also be submitted to DOE officials at the scoping meeting.

Issued in Washington, DC, on February 12, 2009.

Steve Isakowitz,
Chief Financial Officer, Office of the Chief Financial Officer.

[FR Doc. E9-3411 Filed 2-17-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

February 12, 2009.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: February 19, 2009; 10 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda

* Note—items listed on the agenda may be deleted without further notice.

FOR MORE INFORMATION CONTACT:

Kimberly D. Bose, Secretary, Telephone (202) 502-8400. For a recorded message listing items struck from or added to the meeting, call (202) 502-8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at <http://www.ferc.gov> using the eLibrary link, or may be examined in the Commission's Public Reference Room.

945TH—MEETING, REGULAR MEETING

[February 19, 2009, 10 a.m.]

Item No.	Docket No.	Company
Administrative		
A-1	AD02-1-000	Agency Administrative Matters.
A-2	AD02-7-000	Customer Matters, Reliability, Security and Market Operations.
A-3	AD06-3-000	Energy Market Update.
Electric		
E-1	ER08-637-000, ER08-637-001, ER08-637-004, ER08-637-005	Midwest Independent Transmission System Operator, Inc. and Transmission Owners of the Midwest Independent Transmission System Operator, Inc.
E-2	ER08-394-004, ER08-394-005	Midwest Independent Transmission System Operator, Inc.
E-3	ER08-394-006, ER08-394-008	Midwest Independent Transmission System Operator, Inc.
E-4	EL08-47-000	PJM Interconnection, LLC.
E-5	EC08-78-000	Cinergy Corporation.
	EL08-61-000	Duke Energy Ohio, Inc.
		Cinergy Power Investments, Inc.
		Generating Facility LLCs.
E-6	EC09-36-000	EDF Development, Inc.

945TH—MEETING, REGULAR MEETING—Continued

[February 19, 2009, 10 a.m.]

Item No.	Docket No.	Company
	EC09-37-000	Constellation Energy Group, Inc. Handsome Lake Energy, LLC. EDF Development, Inc.
	EC09-38-000	Constellation Energy Group, Inc. CER Generation II, LLC. EDF Development, Inc.
	EC09-39-000	Constellation Energy Group, Inc. EDF Development, Inc.
	EC09-41-000	Constellation Energy Group, Inc. Constellation Power Source Generation LLC. EDF Development, Inc.
	EC09-42-000	Constellation Energy Group, Inc. Constellation Power Source Generation LLC. EDF Development, Inc.
	EC09-43-000	Constellation Energy Group, Inc. EDF Development, Inc.
	EC09-44-000	Constellation Energy Group, Inc. EDF Development, Inc.
	EC09-45-000	Constellation Energy Group, Inc. Constellation Power Source Generation LLC. EDF Development, Inc.
	EC09-46-000	EDF Development, Inc. Constellation Energy Group, Inc. EDF Development, Inc.
E-7	EC09-40-000	Constellation Energy Group, Inc. Constellation Power Source Generation LLC. EDF Development, Inc.
E-8	ER08-637-006	Constellation Energy Group, Inc. Constellation Energy Nuclear Group, LLC.
E-9	RM08-3-001	Midwest Independent Transmission System Operator, Inc.
E-10	RR07-16-004	Mandatory Reliability Standard for Nuclear Plant Interface Coordination. North American Electric Reliability Corporation.
E-11	ER09-240-000	California Independent System Operator Corporation.
E-12	ER06-615-026, ER07-1257-008	California Independent System Operator Corporation.
E-13	ER08-1059-001, ER06-615-031, ER07-1257-009, ER08-519-003.	California Independent System Operator Corporation.
E-14	ER08-1178-000, EL08-88-000	California Independent System Operator Corporation.
E-15	ER09-432-000,	Chinook Power Transmission, LLC.
	ER09-433-000	Zephyr Power Transmission, LLC.
E-16	EL05-61-000	Con Edison Energy, Inc. v. ISO New England Inc. and New England Power Pool.
E-17	EL07-78-001	330 Fund I, L.P. v. New York Independent System Operator, Inc.
E-18	ER06-1474-005, ER06-1474-006	PJM Interconnection, LLC.
E-19	ER02-2001-010	Electric Quarterly Reports.
	ER05-1420-000	Lehman Brothers Electric Commodities Services Inc.
	ER06-1152-000	Celeren Corporation.
	ER07-1247-000	FC Energy Services Company, LLC.
E-20	ER09-446-000, ER08-1343-000, ER08-1353-000, ER09-187-000, ER09-187-001, EL09-19-000.	Southern California Edison Company.
E-21	OMITTED.	
Gas		
G-1	RM96-1-029	Standards for Business Practices for Interstate Natural Gas Pipelines.
G-2	RP07-504-000	Algonquin Gas Transmission, LLC.
Hydro		
H-1	P-12897-001	BPUS Generation Development, LLC.
	P-13117-001	Forest County Hydroelectric Corporation.
H-2	P-2145-060	Public Utility District No. 1 of Chelan County, Washington.
H-3	P-4306-023	City of Hastings, Minnesota.
H-4	P-6066-034	McCallum Enterprises I, Limited Partnership.

Certificates

There are no Certificate items scheduled at this time.

Kimberly D. Bose,

Secretary.

A free webcast of this event is available through www.ferc.gov. Anyone with Internet access who desires to view this event can do so by navigating to www.ferc.gov's Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit www.CapitolConnection.org or contact Danelle Springer or David Reininger at 703-993-3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. E9-3446 Filed 2-17-09; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2009-0044; FRL-8400-3]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any currently registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Comments must be received on or before April 20, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2009-0044, 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.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2009-0044. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](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 [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the 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.

Docket: 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., 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 either 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 hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Andrew Bryceland, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6928; e-mail address: bryceland.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or 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:

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

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

File Symbol: 56336-LL. *Applicant:* Suterra, LLC, 213 SW Columbia Street, Bend, OR, 97702-1013. *Product name:* Checkmate VBM Technical Pheromone. *Active ingredient:* Arthropod pheromone and 5-methyl-2-(1-methylethenyl)-4-hexenyl-3-methyl-2-butanate (Common Name: Lavandulyl senecioate) at 97.66%. *Proposal classification/Use:* Manufacturing use product.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: February 5, 2009.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E9-3410 Filed 2-17-09; 8:45 a.m.]

BILLING CODE 6560-50-S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:30 a.m., Monday, February 23, 2009.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT:

Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202-452-2955.

SUPPLEMENTARY INFORMATION: You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, February 13, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-3514 Filed 2-13-09; 4:15 pm]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-New]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the

Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to Sherette.funncoleman@hhs.gov, or call the Reports Clearance Office on (202) 690-6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above email address within 60 days.

Proposed Project: Facts for Consumers about Health IT Service Providers—OMB No. 0990-NEW-OS/Office of the National Coordinator for Health Information Technology.

Abstract: A new health information technology, the personal health record (PHR), seeks to provide consumers with the capability to directly manage their own health information. Although PHRs can exist in different formats or media (i.e., paper or electronic), the term usually refers to an online record containing an individual's personal health information. PHRs typically include information such as health history, vaccinations, allergies, test results, and prescription information. Given the newness of the electronic PHR concept, the different ways to establish PHRs, and the sensitivity of personal health information, the Office of the National Coordinator for Health Information Technology (ONC) is taking steps to establish that useful facts about PHRs and PHR privacy policy information be made available to consumers so they can make informed decisions about selecting and using PHRs. Toward this end, ONC has a project to develop an online model for PHR providers. The model will be developed to:

- Allow presentation of important PHR facts and policies to consumers,

- Allow consumers to understand and consistently compare PHR service provider policies with others, and
- Focus on the key information that may influence decisions and choices of PHR service provider.

The project includes iterative rounds of in-depth consumer testing during April–October 2009 to assess and analyze consumer understanding and input about the model. The model will be iteratively revised to design a final

template that will allow PHR vendors to convey useful and understandable facts to consumers about their privacy, security, and information management policies. Testing will be conducted in six locations that cover the four geographic census regions and will include 90-minute, one-on-one, cognitive usability interviews with seven participants at each of six sites, for a total not to exceed 42 interviews.

In addition, each participant will have been recruited through a 15-minute screening interview. The participants will be recruited according to U.S. census statistics for race/ethnicity, age, marital status, gender, and income. Also, the sample will include participants both familiar and unfamiliar with PHRs and participants who manage chronic health issues or a disease for themselves or others.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (If necessary)	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Screening Form	84	1	15/60	21
Interview Form	42	1	90/60	63
Total	84

Seleda Perryman,
Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.
 [FR Doc. E9–3440 Filed 2–17–09; 8:45 am]
BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990—New; 30-day notice]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

Agency Information Collection Request; 30-Day Public Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a

proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency’s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to Sherrette.funncoleman@hhs.gov, or call

the Reports Clearance Office on (202) 690–5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at 202–395–6974.

Proposed Project: Evaluation of the National Bone Health Campaign Pilot Site Project—OMB No. 0990—NEW—Office on Women’s Health (OWH).

Abstract: The Office on Women’s Health (OWH) is requesting clearance for forms to evaluate the implementation and effectiveness of the revised BodyWorks program; an obesity prevention program targeting parents and girls that highlights behaviors known to improve bone health. Using a technical assistance model, the revised BodyWorks program will be implemented by local coalitions in three pilot sites. Clearance is also requested for forms to assess the success of this technical assistance model.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Parent/Caregiver participant in the Revised BodyWorks program.	Parent/Caregiver Pre test Questionnaire.	171	1	30/60	86
	Parent/Caregiver Post test Questionnaire.	153	1	30/60	77
	Parent/Caregiver Session Evaluation Forms (10 forms).	153	10	3/60	77
Parent/Caregiver Revised BodyWorks program comparison group participant.	Parent/Caregiver Pre test Questionnaire.	63	1	30/60	32
	Parent/Caregiver Post test Questionnaire.	50	1	30/60	25
Adolescent participant in the Revised BodyWorks program.	Adolescent Pretest Questionnaire ...	228	1	30/60	114

ESTIMATED ANNUALIZED BURDEN TABLE—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Adolescent Revised BodyWorks program comparison group participant.	Adolescent Post test Questionnaire	204	1	30/60	102
	Adolescent Session Evaluation Forms (10 forms).	204	10	3/60	102
	Adolescent Pre test Questionnaire ..	63	1	30/60	32
Trainers of the Revised BodyWorks program.	Adolescent Post test Questionnaire	50	1	30/60	25
	Facilitator Feedback Forms (10 forms).	22	10	5/60	18
Coalition leaders, members, and site coordinators.	Coalition Pre test Survey	86	1	20/60	29
	Coalition Post test Survey	72	1	30/60	36
Total Hours	755

Dated: February 10, 2009.

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E9-3439 Filed 2-17-09; 8:45 am]

BILLING CODE 4150-33-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegation of Authority

Notice is hereby given that I have delegated to the Director, Office of Family Assistance, the following authority vested in me by the Secretary of Health and Human Services in the memorandums dated August 20, 1991, Delegations of Authority for Social Security Act Programs and September 16, 1997, Delegations of Authority for the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193).

(a) Authority Delegated.

Authority under section 116 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to take action related to the reimbursement of the federal share of overpayments that were recovered from former recipients of the Aid to Families with Dependent Children (AFDC) program.

(b) Limitations.

1. This delegation of authority shall be exercised under the Department's existing policies on delegations and regulations.

2. This delegation of authority excludes the authority to hold hearings.

3. Any redelegation shall be in writing and prompt notification must be provided to all affected managers,

supervisors, and other personnel, and requires the concurrence of the Deputy Assistant Secretary for Administration.

(c) Effect on Existing Delegations.

As related to the authorities delegated herein, this delegation of authority supersedes all previous delegations relating to the AFDC program delegated to OFA.

I hereby affirm and ratify any actions taken by the Director, Office of Family Assistance, which involved the exercise of the authorities delegated herein prior to the effective date of this delegation.

(d) Effective Date.

This delegation of authority is effective upon the date of signature.

Date signed: February 5, 2009.

Daniel C. Schneider,

Acting Assistant Secretary for Children and Families.

[FR Doc. E9-3458 Filed 2-17-09; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Analysis of Comments and Implementation of the NIH Public Access Policy

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

Background

The National Institutes of Health (NIH) Public Access Policy requires investigators funded by the NIH to submit, or have submitted for them, an electronic version of their final, peer-reviewed manuscripts upon acceptance for publication to the National Library of Medicine's digital archive, PubMed Central, to be posted publicly within 12

months after the official date of publication. Congress required the NIH to implement this funding limitation in Division G, Title II, Section 218 of the Consolidated Appropriations Act of 2008 ("Section 218"). The Policy is intended to advance science, provide public access to the published results of NIH-funded research, and improve human health.

The current Public Access Policy is the culmination of years of effort and community interaction. Prior to passage of Section 218, the NIH undertook extraordinary public outreach concerning the issue of public access to the published results of NIH-funded research. These outreach efforts included a review of over six thousand public comments and the establishment of an independent advisory group to review NIH's implementation of a voluntary Public Access Policy. Additionally, as part of the process to implement Section 218 in a transparent and participatory manner, the NIH formally sought public input through an open meeting and a Request for Information (RFI) seeking public comment. This open meeting occurred on March 20, 2008, and was designed to ensure that a discussion of stakeholder issues could occur. The feedback from the open meeting helped define questions for an RFI, which was published on the NIH Web site on March 28, 2008 and in the **Federal Register** on March 31, 2008 (73 FR 16881-16895). The RFI was designed to seek input on the NIH Public Access Policy, as it was revised to incorporate Section 218, and the responses to frequently asked questions (FAQs) concerning it. The RFI was open for sixty days following publication in the **Federal Register**, from March 28 to May 31, 2008.

Overview of Feedback

In response to the open meeting and RFI, the NIH received 613 unduplicated comments from a broad cross-section of the public, including NIH-funded investigators, members of the general public, patient advocates, professional organizations, and publishers. This report summarizes these comments.

Most comments offered broad support for the policy as written. Many comments requested a reduction in the delay period before papers can be made publicly available on PubMed Central. In some cases, commenters expressed concern about the Policy, others asked for clarification, and still others suggested alternatives to NIH's implementation. These questions and concerns fall into several broad categories:

- The potential administrative burden on Program Directors/Principal Investigators and awardee institutions.
- The details of implementing the Policy, including applicability, cost reimbursement, compliance monitoring and enforcement, and publisher support of the Policy.
- Associated issues, such as submission procedures, tracking submitted papers, version of the paper submitted, and managing and protecting copyrights.
- The accordance of the Policy Implementation with copyright law and the Administrative Procedures Act.
- Questions about Policy impact, such as financial impacts on publishers and NIH.

The NIH also received comments describing implementation efforts by numerous awardee institutions and publishers. In some cases, libraries took the lead on educating their faculty and supporting them in interpreting publishing agreements and submitting manuscripts to NIH. In other cases, offices of sponsored research provided guidance on the NIH Public Access Policy disseminated to their faculty community via the Web, memos, seminars, and video casts. Still other institutions described collaborations between libraries, offices of sponsored research, university counsels, and technology transfer offices. Several universities and private groups described the development of new policies on scholarly communications and new publishing forms and addenda that their faculty could use to ensure compliance with the Policy.

NIH Response

The NIH carefully considered the views expressed by publishers, patient advocates, scientists, university

administrators, and others in the comments submitted. Throughout the course of its analysis, the NIH undertook various efforts to respond to concerns as it identified them. The agency aimed these actions to clarify the Public Access Policy and to facilitate compliance with Section 218. In May, July, and September of 2008, NIH updated the Public Access Web site to clarify the applicability, goals and anticipated impact of the policy, the available methods to submit papers, and planned methods to document compliance. In June 2008, NIH updated the NIH Manuscript Submission System (NIHMS), the online mechanism for submission of manuscripts to PubMed Central (PMC), to allow Program Directors/Principal Investigators (PDs/Pis) to delegate all aspects of submission tasks to authors, and to allow publishers who submit manuscripts to the NIHMS on behalf of authors to exert greater control over manuscript delay periods. In August, the National Library of Medicine issued a new Web tool to help the scientific community obtain PubMed Central Identifiers in bulk. In September 2008, NIH issued a Guide Notice (NOT-OD-08-119 at <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-08-119.html>) reminding awardees about the compliance process and providing details concerning NIH's monitoring plan for fiscal year 2008.

These efforts appear to be working. The NIH estimates approximately 80,000 papers arise from NIH funds each year, and this total serves as the target for the Public Access Policy. During the voluntary policy, from May 2005 to December 2007, the NIH was able to collect a total of 19 percent of targeted papers, from all sources. Under the first five months of the Section 218 requirement (April to August 2008), this rate jumped to an estimated 56 percent of papers per month. While NIH expects to post all of the estimated 56 percent of these NIH papers, most of them will not be publicly available until 2009.

These first few months show the promise of a Public Access Policy requirement, its implementation, and the active support from the academic and publishing communities. However, work still remains as over 40 percent of applicable papers per month remain unpublished.

Implementation and process refinement will be continuing in the coming months. The NIH has established voluntary partnerships with many publishers to facilitate deposit of manuscripts and final published papers and expects these partnerships to continue to expand and the percentage of submitted papers to grow. The NIH

will also continue to engage the community as we proceed to implement the Policy in the most efficient and effective manner possible.

Policy Overview

The NIH Public Access Policy, announced in January 2008, ensures that the public has access to the published results of NIH-funded research. See <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-08-033.html>. It requires scientists to submit final peer-reviewed journal manuscripts that arise from NIH funds to the digital archive PubMed Central upon acceptance for publication. To help advance science and improve human health, the Policy requires that these papers be accessible to the public on PubMed Central no later than 12 months after publication.

This Policy implements the Consolidated Appropriations Act of 2008, which directed the NIH to require investigators funded by the NIH to submit, or have submitted for them, an electronic version of their final, peer-reviewed manuscripts upon acceptance for publication to the National Library of Medicine's digital archive, PubMed Central (PMC), to be posted publicly within 12 months after the official date of publication. The Policy builds upon the experience with NIH's voluntary Public Access Policy, which was published in 2005 and has three aims:

1. ARCHIVE. A central collection of NIH-funded research publications preserves vital published research findings for years to come.
2. ADVANCE. The archive is an information resource for scientists to research publications and for NIH to manage better its entire research investment.
3. ACCESS. The archive makes available to the public research publications resulting from NIH-funded research.

Policy History

The original, voluntary Public Access Policy, implemented May 2005 (NOT-OD-05-022, available at <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-05-022.html>), encouraged but did not require investigators receiving NIH funding to deposit their peer-reviewed manuscripts into PubMed Central. It was shaped, in large part, through discussion with the extramural community.

The NIH began public discussions on this topic with three town hall style meetings in 2004. From this feedback, the NIH developed a proposal for a voluntary public access policy that would make final peer-reviewed

manuscripts publicly available on PubMed Central within 6 months of publication. The NIH issued the proposed NIH Public Access Policy for comment in September 2004 (see <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-04-064.html> or <http://a257.g.akamaitech.net/7/257/2422/06jun20041800/edocket.access.gpo.gov/2004/04-21097.htm>). In response to its request for input on the proposed policy, NIH received over 6,200 comments from interested parties, including grantees, publishers and trade organizations. After carefully considering all the comments received, the NIH published a final policy, NOT-OD-05-022, on February 3, 2005 (also published at 70 FR 6891). Though 66 percent of comments favored a six-month delay period, the NIH implemented a voluntary Public Access policy with a 12-month delay period out of deference to concerns from some members of the publishing community.

Implementation of this voluntary policy was marked by continued engagement with multiple stakeholders in order to facilitate participation. The NIH staff met dozens of times and exchanged hundreds of letters with patient advocacy groups, awardee institutions and their representatives, publishers, and scientific societies regarding the Policy. (For a breakdown of meetings and correspondence, see slide 12 of NIH Director Elias Zerhouni's presentation at the March 20, 2008, open meeting at http://publicaccess.nih.gov/comments/Overview_Context.pdf.) In collaboration with publishers, investigators, grantees, and others, the NIH established systems to make it easy for scientists to deposit their manuscripts directly and for interested publishers to deposit manuscripts on scientists' behalf. For example, the NIH Manuscript Submission System (NIHMS), a Web service built to support the Policy, allows publishers to submit manuscripts on behalf of authors in bulk. The NIH also developed new forms of PubMed Central Journal agreements in collaboration with publishers, which enable publishers to submit final, published articles to PubMed Central from NIH-funded authors, only and/or from authors who pay open access fees to the journals.

Thus, for almost three years, the NIH asked the scientists it supports to deposit their NIH-funded scientific manuscripts in an NIH online system that would make them accessible to the public, freely and in perpetuity. But the compliance rate under the voluntary system demonstrated that it would not achieve the goals of the Public Access

Policy. In December 2007, the Consolidated Appropriations Act of 2008 was signed into law, directing the NIH to require submission of manuscripts.

Implementing the Consolidated Appropriations Act of 2008

The Consolidated Appropriations Act of 2008 (Pub. L. 110-161), at Division G, Title II, Section 218, directs the NIH as follows: The Director of the National Institutes of Health shall require that all investigators funded by the NIH submit or have submitted for them to the National Library of Medicine's PubMed Central an electronic version of their final, peer-reviewed manuscripts upon acceptance for publication, to be made publicly available no later than 12 months after the official date of publication: Provided, that the NIH shall implement the public access policy in a manner consistent with copyright law.

On January 11, 2008, NIH issued the Public Access Policy implementing this clear and unambiguous new statute. As described in the *NIH Guide for Grants and Contracts* (NOT-OD-08-033, available at <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-08-033.html>), the Policy restates the statute and offers the following specifics:

1. The NIH Public Access Policy applies to all peer-reviewed articles that arise, in whole or in part, from direct costs¹ funded by NIH, or from NIH staff, that are accepted for publication on or after April 7, 2008.

2. Institutions and investigators are responsible for ensuring that any publishing or copyright agreements concerning submitted articles fully comply with this Policy.

3. PubMed Central (PMC) is the NIH digital archive of full-text, peer-reviewed journal articles. Its content is publicly accessible and integrated with other databases (see: <http://www.pubmedcentral.nih.gov/>).

4. The final, peer-reviewed manuscript includes all graphics and supplemental materials that are associated with the article.

5. Beginning May 25, 2008, anyone submitting an application, proposal, or progress report to the NIH must include the PMC or NIH Manuscript Submission reference number when citing applicable articles that arise from their NIH-funded research. This policy includes applications submitted to the NIH for the May 25, 2008 due date and subsequent due dates.

¹"Directly" funded means costs that can be specifically identified with a particular project or activity. See NIH Grants Policy Statement, Rev. 12/2003.

Compliance

Compliance with this Policy is a statutory requirement and a term and condition of the grant award and cooperative agreement, in accordance with the NIH Grants Policy Statement. For contracts, the NIH includes this requirement in all R&D solicitations and awards under Section H, Special Contract Requirements, in accordance with the Uniform Contract Format.

In addition to announcing the Policy, the NIH established a Web site and posted responses to frequently asked questions (FAQs) that provide authors, their institutions, and their publishers with guidance on the implementation of the policy.

As part of the process to implement Section 218 in a transparent and participatory manner, the NIH formally sought public input through an open meeting and a Request for Information seeking public comment. The open meeting occurred on March 20, 2008 (NOT-OD-08-057), and was designed to ensure that discussion of stakeholder issues could occur. The feedback from the open meeting helped define questions for a Request for Information (RFI), conducted from March 28 to May 31 (NOT-OD-08-060). This report summarizes comments received at the meeting and in response to the RFI.

Open Meeting

The purpose of the Thursday, March 20, 2008, meeting was to seek comment from the public on implementation of the NIH Public Access Policy. The meeting was open to all, including NIH-funded researchers, representatives of universities and other NIH grantee organizations, publishers (including commercial organizations, professional societies, and journal editors), patients and public health advocates, and members of the general public. The NIH desired broad participation and commentary.

In particular, the NIH was interested in input concerning the Public Access Policy and the effectiveness of the policy's implementation. Individuals, groups, and organizations were also invited to submit written pre-meeting comments on the NIH Policy.

The NIH made every effort to make the meeting and pre-meeting comments open and transparent. Comments were made public as they were received. The meeting was video cast, and everyone who wished to speak was able to. All meeting materials, including the Guide Notice, **Federal Register** Notice, video cast, transcript, and comments are available at http://publicaccess.nih.gov/open_meeting_march_2008.htm.

Comments posted on this site are recorded as submitted and, in some cases, include duplicates.

Request for Information (RFI)

The feedback from the open meeting helped define questions for a Request for Information (RFI), which was published on the NIH Web site on March 28, 2008, and in the **Federal Register** on March 31, 2008 (73 FR 1681–1695) (*see* NOT–OD–08–060). The NIH sought information from the public, including all stakeholders, about the new NIH Public Access Policy and the frequently asked questions developed to assist investigators to implement it. Among other issues, the NIH particularly sought information about the following questions:

- Do you have recommendations for alternative implementation approaches to those already reflected in the NIH Public Access Policy?
- In light of the change in law that makes NIH's public access policy mandatory, do you have recommendations for monitoring and ensuring compliance with the NIH Public Access Policy?
- In addition to the information already posted on the NIH Web site, what additional information, training or communications related to the NIH Public Access Policy would be helpful to you?

Individuals, groups, and organizations interested in responding were invited to do so via a Web site that would record their responses for each question and make those responses publicly available. All comments received via the Web and e-mail related to the Public Access Policy RFI is now available at <http://publicaccess.nih.gov/comments.htm>.

Methodology for Analysis

Consolidating and Categorizing Comments

Comments were posted as they were collected, and commenters had the opportunity to respond to other comments. This was a deliberate effort on the part of NIH to encourage dialogue among stakeholders and to provide a more synthesized set of ideas for analysis. Individuals and organizations were allowed to submit multiple comments, and all comments were treated equally, regardless of the source. Although the NIH requested input on several open-ended questions at the meeting and in the RFI, commenters did not restrict themselves to input on these questions and offered a variety of opinions on other topics, either in addition to responding to the questions or in lieu of responding to them.

Combined, the open meeting and RFI yielded 613 unduplicated comments. The comments include materials entered through the online comment service, transcriptions of in-person statements offered at the March 20 Open Meeting, and e-mails received at the Public Access comments mail box.

Duplicates were identified by finding multiple comments from the same individual that contained identical content. Comments that were entirely off-topic (e.g., SPAM, selling products) were considered nonresponsive and thus not counted. If an individual submitted multiple responses and each submission contained new content, they were not marked as duplicates and were separately counted and analyzed. In addition, if the same comment or information (e.g., a form letter) was received from two or more individuals those comments were counted separately and not marked as duplicates.

All unduplicated comments underwent an initial review to identify the topic(s) addressed and to gain a sense of the relative number of commenters who addressed each topic. This initial analysis helped to identify major themes for inclusion in this report.

The 613 unduplicated comments covered by this report, combining comments from both the open meeting and the RFI, and including PDF comments converted to text using optical character recognition, became available in a single file at <http://publicaccess.nih.gov/comments.htm> in October 2008. We invite our stakeholders to use these resources to conduct independent analyses of these data.

The public comments were largely supportive of the Policy. Comments clustered around several broad themes. We describe them below, followed by NIH's analysis and response where appropriate.

1. Need for the Policy

The most common theme among comments, expressed in a large majority of all comments, was support for the Policy as written. When reasons for support were offered, the most common were as follows: (1) The perceived benefit to patients and their families, (2) the belief that the American public has a right to access papers arising from NIH funds, and (3) the expected potential of the policy to advance scientific discovery. A small minority of comments expressed general disagreement with the Policy and/or felt that increasing access to papers arising from NIH funds was unnecessary.

2. The Length of the Delay Period

The second largest number of comments, second only to general support for the Policy, were comments advocating reducing the period of time before papers are made publicly available on PubMed Central. A large number of commenters argued for a shorter maximum delay period—many suggested 6 months, many no delay period at all, and a few suggested 3 months. Advocates for reducing the period of time explained that doing so would provide greater benefits to the public and to science. Some further claimed, and provided examples of how, shorter delay periods would not harm publisher interests. A few commenters suggested that the maximum delay period should be greater than 12 months. These commenters claimed that a longer delay period was needed to protect journals in certain disciplines.

The NIH appreciates the concerns of all commenters concerning the maximum delay period between journal publications and posting on PubMed Central. The Consolidated Appropriations Act of 2008 specifies the maximum delay period at 12 months. Copyright holders may always post materials with a shorter delay period, at their discretion.

3. Actions Taken by Institutions to Support Implementation

Many commenters shared their efforts to implement and promote the Policy. Several publishers described their efforts to support implementation, either by facilitating submission of papers on behalf of their authors, or by offering new guidance and publishing agreements so that their authors may understand how to comply with the Policy.

A number of awardee institutions offered their implementation strategies as well. In some cases, libraries were taking the lead in educating their faculty and supporting them in interpreting publishing agreements and submitting manuscripts to the NIH. In other cases, offices of sponsored research described guidance on the NIH Public Access Policy disseminated to their faculty community via the Web, memos, seminars, and video casts. Still other institutions described collaborations between libraries, offices of sponsored research, university counsel, and technology transfer offices. Several universities and private groups also described institutional policies on scholarly communication and new publishing forms and addenda that their

faculty could use to ensure compliance with the Policy.

The NIH is interested in the role institutions may play in supporting the Policy and appreciates the efforts of these commenters to both support the policy and share their strategies. In January 2008, the NIH published an article outlining key questions institutions may wish to consider as they implement the Policy (<http://grants.nih.gov/grants/partners/0108Nexus.htm#investigator>). Based on the comments submitted, it appears that the community has developed multiple approaches to issues described in this article, but it is too early in the implementation of the Policy to determine if some approaches are more successful than others.

NIH employees publish several thousand peer-reviewed papers each year, and the NIH has to support the Policy as an investigator institution as well. Our approach to ensure compliance among our own faculty involves support from the NIH Library, a unit of the NIH Office of Research Services; NIH technology transfer representatives; and the NIH Office of Intramural Research. The NIH offers employees guidance on our Web site, a publishing agreement addendum, centralized negotiation of publishing agreements, help desk support for manuscript submission and policy questions, and staff training upon request. See http://publicaccess.nih.gov/nih_employee_procedures.htm for more information.

4. Administrative Burden for Institutions and Principal Investigators

Some comments expressed concern that the Policy would create undue burdens on authors, investigators, and institutions. The comments are described below.

A. Negotiating Publisher Agreements

Some comments suggested the Policy required authors and individual investigators to negotiate with publishers directly. They felt individual authors lacked the skills or bargaining power to develop an agreement with a publisher that met their needs under the Policy.

Investigators are central to implementing the Policy and usually are the initial copyright holder of the manuscripts that fall under the Policy. They may need to negotiate the terms of publishing agreements with publishers directly. However, the NIH expects that institutions will support their investigators in complying with terms and conditions of award. The NIH Public Access Policy states "Institutions

and investigators are responsible for ensuring that any publishing or copyright agreements concerning submitted articles fully comply with this Policy." The NIH underscores the importance of institutional support throughout the Frequently Asked Questions (FAQ). For example, FAQ C4 addresses publishing agreements or publishers that may not support compliance with the Policy. FAQ C11, released in May 2008 in response to this feedback, addresses another aspect of this concern. In both cases, the NIH encourages authors and investigators to work with their institution's office of sponsored research.

With regard to particular agreement terms, individual copyright arrangements can take many forms, and authors and their institutions should continue to manage such arrangements as they have in the past.

Institutions and investigators may wish to develop particular copyright agreement terms in consultation with their own legal counsel or other applicable official at their institution, as appropriate. As an example, the kind of language that an author or institution might add to a copyright agreement includes the following (as described in FAQ C3):

"Journal acknowledges that Author retains the right to provide a copy of the final peer-reviewed manuscript to the NIH upon acceptance for Journal publication, for public archiving in PubMed Central as soon as possible but no later than 12 months after publication by Journal."

There are many other potential models, some of which were described in other comments and are available for viewing therein.

B. Ability for Investigators to Publish in the Journal of Their Choice

A few comments expressed concern that some journals would refuse to allow manuscripts to be posted to PMC in accordance with the Policy, and authors would not be able to publish in those journals. They claimed this could occur despite an author's best efforts to negotiate with a publisher.

The NIH agrees that author choice of publication is a very important issue, but if this situation were to occur, an author might have to find an alternate journal. Therefore, the NIH encourages authors to clearly communicate with and address these issues before they may transfer their copyright and potentially lose their ability to comply with the Policy. The Public Access Home page states: "Before you sign a publication agreement or similar copyright transfer agreement, make sure

that the agreement allows the paper to be submitted to NIH in accordance with the Public Access Policy."

The NIH has also engaged the publishing community in order to minimize copyright concerns when possible. The NIH has established voluntary partnerships with many publishers who agree to facilitate deposit of manuscripts and final published papers. The number of papers submitted via these agreements has grown since the Public Access Policy took effect. The NIH issued guidance to authors to clarify these various arrangements in July 2008. The guidance can be found at http://publicaccess.nih.gov/submit_process.htm. Whether because of NIH's direct efforts, clear communication from authors and institutions or because of publisher support for the Policy, NIH did not receive comments indicating that publishers or publishing agreements have actually prevented authors from complying with the Policy. To the best of our knowledge, this concern currently remains a hypothetical risk and not a manifest problem.

C. Cost Reimbursement

Some commenters raised the issue of investigators or awardees needing to pay potential publishing costs and fees associated with the Policy (e.g., fees for posting to PubMed Central, fees to reduce delay periods). Some commenters suggested that the NIH should cover these costs, others requested clarification concerning costs, and still others thought the NIH would offer no financial support to either institutions or publishers. As such, the commenters felt that the Policy was an unfunded mandate that might harm author or publisher interests, with junior authors (new investigators and trainees) being especially vulnerable. However, several commenters thought any unrecovered costs associated with the Policy were worth the benefits, and one commenter even requested that the NIH stipulate that costs not be covered.

As with other costs, the NIH will reimburse publication costs, including author fees, for grants and contracts on three conditions: (1) Such costs incurred are actual, allowable, and reasonable to advance the objectives of the award; (2) costs are charged consistently regardless of the source of support; (3) all other applicable rules on allowability of costs are met. Generally, page charges for publication in professional journals are allowable if the published paper reports work supported by the grant and the charges are levied impartially on all papers published by the journal,

whether or not they are submitted by Government-sponsored authors.

D. Compliance Burden

Some commenters expressed concern about the time Program Directors/Principal Investigators (PDs/PIs) and authors will need to spend to submit papers. A few commenters said that a simple submission system was critical to the success of the policy. Among those commenting on the potential burden of the submission process, a portion said the existing NIH Manuscript Submission System (NIHMS) was easy to use, a portion said it was complex and burdensome, and a portion were unaware of how it worked. Some commenters also expressed concern or offered suggestions related to the notification and management of PubMed Central Identifiers (PMIDs), which are assigned to papers after they are submitted and can be used to demonstrate compliance with policy on applications, proposals, and reports.

The NIH agrees with the need to have a simple manuscript submission process to minimize the time associated with deposit of manuscripts into PubMed Central. NIH has worked diligently since the adoption of the voluntary Public Access Policy in 2005 to develop a streamlined and efficient process. During the voluntary Policy, NIH found it took authors about 10 minutes to deposit a paper in the NIH Manuscript Submission System (NIHMS); the time decreased for submitters as they began to submit more papers and gained experience with the system.

The NIH continues to refine the NIHMS as necessary. For example, starting in June 2008, NIH eliminated the need for PDs/PIs to review each deposit. Instead, the NIHMS now allows authors to complete all aspects of manuscript submission, with the idea that greater flexibility in delegation will minimize PD/PI burden. The NIH gives specific guidance on these submission processes on its Web site at http://publicaccess.nih.gov/submit_process.htm. This guidance also describes how authors can delegate some submission tasks to someone in the author's organization (e.g., an assistant or a librarian), or to their publisher, and how all aspects of submission can be delegated to a publisher that participates in PubMed Central.

The NIH has developed Policy compliant alternatives to manuscript deposit that require less author effort. For example, as described at http://publicaccess.nih.gov/submit_process.htm, some publishers sign agreements with the NIH to submit

final published articles directly to PubMed Central without author involvement. Since the passage of the 2008 Consolidated Appropriations Act, the number of publishers signing such agreements has significantly increased.

The NIH has also made changes to the way it reports PubMed Central reference numbers (PMCID), and how authors and delegates can use the NIHMS system. For example, as described in FAQ C9, issued May 2008, the PMID is posted in PubMed as soon as an article has been successfully processed by PMC, which usually occurs around the time of publication. PMIDs are listed in the lower right corner of the Abstract Plus view of PubMed (<http://www.ncbi.nlm.nih.gov/PubMed/>). If the paper is not yet publicly available on PMC, PubMed will also list the date the paper will become available. The NIH provides other methods of obtaining PMIDs (e.g., <http://www.ncbi.nlm.nih.gov/sites/pmc/ptmid>, created in August 2008), as do several bibliography management software packages.

E. Collaborations With Institutional Repositories

As a way to relieve compliance burdens on their faculty, a few institutions requested direct feeds from their repositories to PubMed Central or the NIH Manuscript Submission system.

The NIH believes that these are worthwhile suggestions, but it is concerned that they raise important technical and logistical challenges regarding author approval, copyright permissions, quality control, and formats for electronic transfer. The NIH remains open to closer collaboration with institutional archives and will consider this issue as the Policy matures. National Library of Medicine representatives met with representatives from academic communities to discuss this issue in November 2008.

5. Expanding the Scope of the Public Access Policy

Some commenters suggested the Policy be expanded in several ways from investigators and research funded by additional or all Federal research funds to papers published before April 7, 2008, or to the data and unpublished results associated with an award. A few comments suggested a specific alternative approach to expand the scope of the policy to exempt all works arising from NIH/Government funds from copyright protection.

The NIH understands and appreciates the strongly held views of many commenters concerning access to works funded by the NIH and the Government

generally. The NIH Public Access Policy implements the Consolidated Appropriations Act of 2008, Division G, Title II, Section 218 (Pub. L. 110-161), a Federal statute that was passed by Congress and signed by the President of the United States. This statute is very specific—it indicates what is to be submitted and when, and when and where submissions are made publicly available.

The NIH's new Access Policy took effect a few months after passage of the law to allow copyright holders to make arrangements to post directly and in accordance with copyright law. Regarding the suggestion that works funded through the NIH should be denied copyright protection, we note that works of Government employees, including NIH investigators, are not subject to copyright protection in the United States (17U.S.C. 105). The works of Government awardees, however, are subject to copyright protection.

6. Issues About the Policy and Its Implementation Requiring Clarification

A number of issues were raised that resulted in NIH providing clarifications.

A. Compliance Monitoring and Enforcement

A number of comments suggested that investigators should include evidence of compliance with the Policy in applications, proposals or reports submitted to the NIH. A few comments simply asked what is the process for enforcing compliance.

It is unclear whether the commenters proposing reference within NIH applications, proposals, or reports were endorsing the Policy as implemented, as it already specifies that investigators should do so, or were unaware of the compliance procedure described in the January 11, 2008 Guide notice. As is made clear therein, the NIH expects that investigators citing their NIH-funded papers subject to the Policy in NIH applications, proposals, or progress reports will include the PubMed Central reference number for each applicable paper.

The NIH clarified the compliance reporting process with an update to the Web site in May 2008 and further clarified the compliance documentation and monitoring processes in a Guide Notice (OD-NOT-08-119 at <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-08-119.html>). FAQ C8, also part of the May 2008 release, clarifies that the Policy reporting requirement for applicants and PDs/PIs only applies to papers that are authored by them or arose from their NIH award and fall under the policy.

Some commenters also asked about consequences for PDs/PIs and institutions if manuscripts are not submitted as required by the law and the Policy. Generally, and as specified in the *NIH Guide for Grants and Contracts*, a grantee's failure to comply with the terms and conditions of award may cause the NIH to take one or more enforcement actions, depending on the severity and duration of the noncompliance. The NIH will undertake any such action in accordance with applicable statutes, regulations, and policies. The NIH generally will afford the grantee an opportunity to correct the deficiencies before taking enforcement action unless public health or welfare concerns require immediate action. However, even if a grantee is taking corrective action, the NIH may take proactive action to protect the Federal Government's interests, including placing special conditions on awards or precluding the grantee from obtaining future awards for a specified period, or may take action designed to prevent future noncompliance, such as closer monitoring. See Enforcement Actions in the NIH Grants Policy Statement (11/03): http://grants.nih.gov/grants/policy/nihgps_2003/NIHGPs_Part8.htm#_Toc54600145.

B. Preventing Copyright Violations on PMC

The NIH received feedback on the potential copyright implications of posting papers to PubMed Central (PMC), which cluster into two themes. Some comments asked how the NIH will prevent inappropriate posting of materials to PMC without permission of the copyright holder or posting prior to expiration of the delay period specified by the submitter. Other comments, described below, expressed concern about the operation of PMC and the protections it offers copyright holders against inappropriate use of their works.

The comments about inappropriate posting primarily focused on individuals posting content without copyright permission. The NIH manuscript submission system is the only way in which authors may deposit manuscripts to PMC. That process requires the author to confirm he or she has the right or permission for the specific version submitted to be posted to PMC after the specific delay period. Publishers and authors have occasionally disagreed on the terms of their publishing agreements. Publishers have submitted final peer-reviewed manuscripts on behalf of their authors requesting a specific delay period, and in the course of approving the manuscript for posting, authors have

selected a shorter delay period. In June 2008, NIH modified the NIH Manuscript Submission System to allow a publisher to fix the delay period when they submit a manuscript on behalf of their authors. Authors now have to contact NIH and their publisher if they wish to change the delay. We expect this more direct communication will result in fewer disagreements about delay periods.

Commenters also asked how NIH safeguards privately copyrighted materials on PubMed Central once it is posted. NIH has eight years of experience in safeguarding copyrighted material on the PMC Web site, the host archive of the Public Access Policy. There are over 1.5 million full-text articles on the Web site. PMC has algorithms to detect inappropriate use, such as bulk downloading, and sites responsible for inappropriate use are warned of the consequences of violating copyright provisions and blocked from further access.

C. Applicability of the Policy

Some commenters asked questions or expressed confusion about the papers to which the Policy applies. Applicability was clarified in the May 2008 FAQ B1. The Policy applies to any manuscript that:

- Is peer-reviewed;
- And, is accepted for publication in a journal on or after April 7, 2008.
- And, arises from:
 - Any direct funding² from an NIH grant or cooperative agreement active in fiscal year 2008, or;
 - Any direct funding from an NIH contract signed on or after April 7, 2008, or;
 - Any direct funding from the NIH Intramural Research Program, or;
 - An NIH employee.

Consistent with the NIH's long-standing interest in developing a full and complete database, however, authors may also submit final peer-reviewed manuscripts accepted before April 7, 2008, that arise from NIH funds, if they have appropriate copyright permission or authority.

D. Version Control

The NIH received comments with questions or concerns about the version of the paper posted to PMC. Some commenters suggested that only final, published versions of articles should be posted as they felt final peer-reviewed manuscripts may contain scientific errors corrected during the copy-editing

process. A few commenters expressed concern that the formatting processes that are part of PubMed Central may change the meaning of the paper.

The NIH has been posting final peer-reviewed manuscripts on PMC for years and found them to offer the same scientific information as the final published article. The NIH obtains the permission of the author before each author manuscript is posted to PMC. We ask authors to review the specific document to be posted, and allow them to correct any scientific issues during the approval process and afterwards. To date, we are unaware of uncorrected errors in PubMed Central.

In response to questions about the version of a paper that may be posted on PMC, the NIH issued FAQ D6 in May 2008. It explains that the NIH Public Access Policy is based on a law (Division G, Title II, Section 218 of Pub. L. 110-161) that requires investigators to submit "their final, peer-reviewed manuscripts" to PubMed Central. The NIH will accept the final published article in lieu of the final peer-reviewed manuscript, provided that the submitter has the right to submit this version. Some journals post final published articles directly to PMC. See http://publicaccess.nih.gov/submit_process_journals.htm for more information.

Papers need to be converted into the PMC Archival format in order to be posted. This process does not change the meaning or the content of the paper. However, it does further the goals of the Public Access Policy and is a fundamental feature of the PMC database. Once posted to PubMed Central, results of NIH funded research become more prominent, integrated, and accessible, making it easier for all scientists to pursue NIH's research priority areas competitively. PubMed Central materials are integrated with large NIH research databases such as Genbank and PubChem, which helps accelerate scientific discovery. Finally, the Policy allows the NIH to monitor, mine, and develop its portfolio of taxpayer-funded research more effectively and archive its results in perpetuity.

The NIH should provide guidance on copyright issues.

Some commenters requested explicit guidance on copyright issues. The NIH provides an example in FAQ C3 (<http://publicaccess.nih.gov/FAQ.htm#c3>), which states that " * * * Individual copyright arrangements can take many forms, and authors and their institutions should continue to manage such arrangements as they have in the past."

² "Directly" funded means costs that can be specifically identified with a particular project or activity. See NIH Grants Policy Statement, Rev. 12/2003.

Institutions and investigators may wish to develop particular copyright agreement terms in consultation with their own legal counsel or other applicable official at their institution, as appropriate. As an example, the kind of language that an author or institution might add to a copyright agreement includes the following:

“Journal acknowledges that Author retains the right to provide a copy of the final peer-reviewed manuscript to the NIH upon acceptance for Journal publication, for public archiving in PubMed Central as soon as possible but no later than 12 months after publication by Journal.”

7. Requests for Additional Information About the Policy and Implementation Procedures.

A. NIH Should Disseminate Information About Publisher Support of the Policy

Some commenters asked for a list of publishers that allow their authors to comply with the policy. NIH has developed and maintains two lists of publishers and journals. Hundreds of journals make the final published version of every NIH-funded article publicly available in PubMed Central within 12 months of publication without author involvement. See http://publicaccess.nih.gov/submit_process_journals.htm for a list of these journals. Some publishers will deposit an individual final published article in PubMed Central upon author request, and generally for a fee. See the list of publishers at http://publicaccess.nih.gov/select_deposit_publishers.htm. All other publisher policies and procedures require active author involvement to finalize submission, as described in Methods C and D of the Policy Web site (see http://publicaccess.nih.gov/submit_process.htm).

B. Frequently Asked Questions

Some commenters specifically highlighted the Frequently Asked Questions as a helpful resource. A few mentioned the Public Access Policy Web site in its entirety as helpful. The NIH also offers additional resources to support training efforts, including complete slide presentations that may be downloaded and adopted for stakeholder use. These are available at <http://publicaccess.nih.gov/communications.htm>.

8. Implementation Alternatives

A. Administrative Procedure Act

Some commenters felt the implementation of the Public Access Policy was in violation of the

Administrative Procedure Act. They claimed the NIH should not have implemented the Policy without going through a notice and comment rulemaking and that the January 11 Guide Notice (<http://grants.nih.gov/grants/guide/notice-files/NOT-OD-08-033.html>) was issued inappropriately.

The NIH believes the initiation of notice and comment rulemaking to implement the new statute is unwarranted and contrary to the interests of science and the public health. The mandatory access requirement now adopted in NIH Public Access Policy derives from Public Law 110-161, § 218, a Federal statute that was passed by Congress and signed by the President of the United States. This statutory provision is a clear and unambiguous directive to the NIH Director to require NIH grantees to provide their manuscripts to PubMed Central after the date of publication.

Where, as is true in this case, a statute clearly directs an agency to execute a congressional objective, and Congress has not directed the agency to promulgate implementing regulations, an agency's interpretation or statement of policy or procedure regarding the statute does not trigger a requirement for notice and comment rulemaking. 5 U.S.C. 553(b)(3)(A); see also *Shalala v. Guernsey Mem. Hosp.*, 514 U.S. 87, 99 (1995); *American Mining Congress v. Mine Safety & Health Admin.*, 995 F.2d 1106, 1112 (D.C. Cir. 1993). Further, the only significant difference between the new law and the NIH's former voluntary public access policy is implementation of the legal directive to require provision of the manuscripts; there is no “gap” left by Congress that would require a rule to implement the statute. See *Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837, 843-44 (1984). The mechanics of implementing the former policy were widely understood as described in published agency policy and in widely accessible Internet resources maintained by the NIH. Furthermore, the mechanics of implementing the new statute are substantially the same as, and consistent with, the NIH's earlier policy implementation. Agency implementation of a plainly worded Congressional mandate—particularly where consistent with established agency policy—does not require a rulemaking proceeding. See, e.g., *Gray Panthers Advocacy Cmte. v. Sullivan*, 936 F.2d 1284, 1291 (D.C. Cir. 1991). To the extent the NIH has offered, and continues to offer, interpretative policy guidance or procedural assistance with regard to the new law, such guidance is not of free-standing legal effect but

rather is intended to assist grantees to comply with their statutory obligations. See *American Mining Congress*, 995 F.2d at 1112. The impact of the mandatory submission requirement arises from the statute, and rulemaking is not necessary to implement this statutory requirement.

B. America Competes Act

Some commenters suggested the America Competes Act as an alternative to the NIH's implementation. Relying on dissemination of reports and abstracts as described in the America Competes Act is not consistent with the Consolidated Appropriations Act of 2008.

C. A “Dark Archive” or Linking to Publisher or Other Web Sites

A few comments suggested that awardees should submit manuscripts to the NIH for internal NIH reporting and portfolio management, and public access could be provided by links to freely available materials on publisher sites. Some comments suggested that the NIH only provide public access via publisher sites, and not maintain an internal archive at all. Many comments explicitly repudiated these “dark archive” or linking approaches and argued that the policy should require deposit to PubMed Central. One comment suggested that the Public Access Policy mandate deposit to institutional archives (i.e., those maintained by universities), and that these repositories could submit papers to PubMed Central.

The Consolidated Appropriations Act of 2008 explicitly states that papers should be submitted to and made publicly available on PubMed Central and the NIH must follow this law. PubMed Central (PMC) is the NIH National Library of Medicine's (NLM) digital repository of full-text, peer-reviewed biomedical, behavioral, and clinical research journals. NLM and its predecessor organizations have been archiving the biomedical literature for over 150 years and are experienced in maintaining a stable archive of scientific information. PMC is currently used by approximately 400,000 users per day.

There are several critical advantages to the scientific community for making papers publicly available on PMC. Once posted to PMC, results of NIH-funded research become more prominent, integrated, and accessible, making it easier for all scientists to pursue NIH's research priority areas competitively. PMC materials are integrated with large NIH research databases such as GenBank and PubChem, which helps accelerate scientific discovery. Clinicians, patients, educators, and students can better reap

the benefits of papers arising from NIH funding by accessing them on PMC at no charge. Finally, the Policy allows NIH to monitor, mine, and develop its portfolio of taxpayer-funded research more effectively, and archive its results in perpetuity.

The Public Access Policy does not state that PMC will be the sole repository for these manuscripts and publications. The NIH has always pointed to journal and publisher sites from PMC and PubMed and will continue to do so. See <http://www.ncbi.nlm.nih.gov/projects/linkout/> for more information. Others may also post and/or archive papers arising from NIH funds at other locations, subject to permission from copyright holders, as appropriate.

9. Copyright Issues

A. Consistency With Copyright Law

The Consolidated Appropriations Act of 2008 requires that the NIH implement the policy consistent with copyright law. Some commenters suggested that that might not be possible.

The NIH disagrees with commenters' suggestions that it will be difficult to implement the new statute in a manner that is consistent with copyright law. To the contrary, the effect of the new statute is merely that an author of a work that was funded by grants from the NIH must retain, from the entire "bundle of rights"³ inherent in a copyrightable work, a right to provide the author's manuscript to PubMed Central for display on its Web site. The author (or his or her employer) could, for instance, address this point in the agreement with the publisher by a simple statement that reserves, on behalf of the assignor, the right to provide the manuscript to PubMed Central for display. Such a reservation of rights by the author is clearly consistent with copyright law and the Consolidated Appropriations Act of 2008.⁴

³ See 17 U.S.C. 106.

⁴ Copyright in a manuscript vests initially with the author and remains with the author unless the rights are expressly assigned. 17 U.S.C. 201(a). Of course, the author may be hired to write the manuscript or may otherwise enter into an arrangement that assigns the rights to an employer, making the employer the author for purposes of the Copyright Act. 17 U.S.C. 201(b). Nevertheless, the author owns all of the rights in the manuscript, and a potential publisher owns no rights, unless and until they are conveyed by the author to the publisher. A publisher that subsequently obtains copyright to the work can continue to hold and enforce all of the rights transferred by the author, subject to the principles of the fair use doctrine, as are all copyrights. PubMed Central includes many copyrighted works, and public use of a work on PubMed Central is constrained by copyright, including the principles of fair use, just as it would

U.S. Copyright law anticipates the transfer of ownership rights in a copyright by agreement among parties or by operation of law (17 U.S.C. 201(d)). Publishers do not own any portion of a copyright in a work that is not transferred to them by the author, or, if it is a work for hire, under an employment agreement with the employing institution. Similarly, the Federal Government, through OMB Circular A-110, grants federally funded institutions the right to retain intangible property (including copyright) as part of the terms and conditions of a Federal grant. Congress could, if it wished, require grantees to assign all rights to intangible property to the Federal funding agency, as indeed was the case for patent rights prior to the Bayh-Dole Act of 1980. However, in recognition of the public interest in having biomedical scientific publications widely accessible, Congress has required only that NIH-funded authors reserve the right to post works on PubMed Central. As one among dozens of conditions imposed on a grantee by Congress in return for taxpayer support of the grantee's work, the reservation of this small sliver of the entire bundle of rights inherent in the work is completely consistent with U.S. Copyright law.

B. Value of Publisher-Held Copyrights if Other Aspects of Copyright Are Retained by Authors

A few comments indicated concern that posting the final peer-reviewed manuscript to PubMed Central undermines the value of all other aspects of copyright that a Publisher may have obtained under the Policy.

As described above, it is acceptable from a copyright perspective for investigators to ensure their papers can be posted to PubMed Central. However, the NIH Public Access Policy applies to awardees, not publishers. The NIH implemented the Public Access Policy prospectively to ensure that publishers have the ability to refuse to publish any

be if a member of the public viewed the publication in a library, for example. Further, the public is alerted that the works they are viewing may be subject to copyright, with the following statement: "This site also contains resources such as PubMed Central, Bookshelf, OMIM, and PubChem which incorporate material contributed or licensed by individuals, companies, or organizations that may be protected by U.S. and foreign copyright laws. All persons reproducing, redistributing, or making commercial use of this information are expected to adhere to the terms and conditions asserted by the copyright holder. Transmission or reproduction of protected items beyond that allowed by fair use (<http://www.copyright.gov/fls/fl102.html>) as defined in the copyright laws requires the written permission of the copyright owners." [<http://www.ncbi.nlm.nih.gov/About/disclaimer.html>]

paper they wish, for any reason they wish, including not obtaining all the rights they may prefer from authors of papers arising from NIH funds. The 12-month delay period and the ability of NIH awardees to cover publication-related costs from their awards are important aspects of the Policy created specifically to address concerns of some publishers and ensure their interests are protected.

These comments concerning loss of value of the copyrighted work were not supported by data and run contrary to NIH's experience. The voluntary support of hundreds of journals to collect papers under the Policy is, perhaps, a reflection of publisher protections in the Public Access Policy. A significant number of journals support their authors by volunteering to submit manuscripts, and many more go beyond the policy by submitting final published articles. Hundreds even deposit final published articles that do not arise from NIH funds. Many of these journals also permit their papers to be posted to PubMed Central before the 12-month maximum delay period. The NIH appreciates the efforts of all these journals to support the Policy.

C. Section 201(E) of the Copyright Act

One comment raised a concern that Section 201(e) of the Copyright Act prohibits a requirement for NIH awardees to retain a right to deposit in PMC. Section 201(e) of the Copyright Act states that when an individual author's ownership of a copyright has not previously been transferred voluntarily by that individual author, no action by any governmental body purporting to seize copyright shall take effect.

Section 201(e) does not apply to the PMC situation for many reasons. First, the works at issue here are for the most part works in which the author has already expressly agreed how copyright will be handled through the employment agreement with their employing institution (see 201(b) works made for hire). Second, the employing institution will have previously accepted, as a term and condition of the grant, the obligation to submit a work created under the grant to PMC. Third, Congress did not require an involuntary transfer of rights, or otherwise "seize" rights. Rather, it required submission of the manuscript to PMC. One way of complying with this requirement would be for the author to retain the right to post, rather than transfer that right to a third party. Such retention by the author does not constitute a seizure or involuntary transfer of rights. Copyrighted material on PMC remains

fully subject to copyright, and copyright owners may fully enforce their rights. Fourth, to the extent that the PMC requirement can be read as a Government-retained interest, Congress often requires funding agencies to retain certain rights in the public interest in tangible and intangible property first produced with public funds. To read the patent or copyright laws as preventing such action would overturn many long-standing provisions of OMB Circular A-110 as well as the Federal Acquisition Regulation (F.A.R.) (e.g., rights in data first produced in its procurement contracts, rights in inventions, rights in computer software).

D. International Copyright Issues

A few comments suggested that copyright concerns stem from making materials available on the Internet, and therefore internationally available. The NIH appreciates that the scientific community is truly global and interchange among scientists worldwide is essential for professional and scientific advancement. The Policy applies to all NIH-funded investigators, including those in foreign countries. The PMC archive is available through the Internet, and therefore globally. Copyrights on works displayed in PMC are fully enforceable by the copyright owners in the U.S. and abroad. The NIH notes that many publishers post materials to their Web site, which also makes them globally available.

One comment raised specific concerns about the Berne Convention and the World Trade Organization (WTO) TRIPS provision. The Berne Convention's provisions require that member countries provide protection for literary and artistic works, including scientific publications. Such protection is of course provided in the United States by its Copyright Act. The PMC deposition requirement does not undermine copyright protection of the grantee's work. Copyrights on works displayed in PMC are fully enforceable by the copyright owners. Article 2(1) of the Berne Convention is consistent with the widespread practice of reservation of rights in works by the funders of those works, which is essentially what Congress did when it required, as a condition of a grant award, the reservation of the right to place a grantee's manuscript in PMC. The concern about the Public Access Policy and potential conflict with Article 13 of the WTO TRIPS is unwarranted because the requirement does not interfere with the author's commercial use of the work. Article 13 directs member countries to confine limitations on exclusive rights to special cases that do

not conflict with the normal exploitation of the work. But the deposition requirement makes no limitation on the exclusive rights attached to the work. It merely requires, as a reasonable and mutually agreed condition of the grant award, that the author or its institution reserves the right to display the author's manuscript on PMC. If the PMC deposition requirement violates TRIPS, then any Government procurement contract that secures rights to works made under the contract would also violate TRIPS. No compelling argument for that proposition has been presented to the NIH.

10. Evaluation and Impact

A. Costs to the NIH

Some commenters asked about the operation and implementation costs of the policy. By building on an existing information technology infrastructure housed at the NLM, the NIH Public Access Policy is an exceptionally cost-effective means to accomplish its goals of archiving, advancing science, and enhancing accessibility. At full compliance, Public Access would cost the NLM \$4.5 million per year (i.e., submission of 80,000 articles per year). Costs may decrease as a greater portion of journals submit papers directly to PMC. The NIH spent an additional \$250,000 in fiscal year 2008 in policy-related staffing costs and contracts, the Request for Information issuance, and the March 20 Open Meeting. These costs will reduce once implementation is complete. The NIH does not have estimates on the cost of compliance and monitoring per grant for NIH staff. Compliance monitoring may add a few minutes to managing active projects for a subset of NIH extramural staff and, as such, cannot be assigned to a specific Public Access cost center.

B. Potential Impact on Publishers

Many commenters touched on potential financial impacts of this Policy on publishers. Some claimed that the Policy would be harmful. A subset of these commenters further argued that if journals are adversely affected by the Policy, it would harm peer review as a whole. No data demonstrating harm to journals or peer review was submitted.

Some commenters claimed the Policy would not be harmful to publishers. A few publishers described their experience making papers publicly available at 12 months or less, both on and off PubMed Central, without adverse financial impact.

The NIH recognizes the enormous value and critical role that peer-

reviewed journals play in the scientific quality control process. Only peer-reviewed papers accepted for publication will be posted in PMC. This Policy is designed to preserve the critical role of journals and publishers in peer review, editing, and scientific quality control processes.

As described in FAQ F10, released September 2008, the NIH is not aware that there will be a substantial impact of the policy on Publishers. An increasing number of journals already provide the public with free access to the published article immediately or within one year of the publication.

The NIH Public Access Policy does not affect authors' freedom to choose the vehicle or venue for publishing their results. The NIH expects that its awardees will continue to publish the results of their research consistent with their professional autonomy and judgment in order to advance science as efficiently and comprehensively as possible.

The NIH has posted thousands of papers to PubMed Central under the NIH Public Access Policy without evidence of harm to scientific publishing or to journals. Only a portion of articles published in scientific journals result from research funded by the NIH. Of these articles, only the final peer-reviewed manuscript is required to be posted, and it need not be made publicly available for up to 12 months post publication. Further, the NIH continues its practice of allowing publication costs, including author fees, to be reimbursed from NIH awards (see <http://publicaccess.nih.gov/FAQ.htm#e3> for more information).

C. Impact on Science

Many commenters supported the idea that the policy will support the advance of science. A few asked for measurement of these impacts. The NIH will consider exploring this issue as compliance rates rise and more NIH funded papers become available on PubMed Central. The NIH also encourages the scientific community to explore this issue independently.

Changes to Date

In response to the feedback received, the NIH communications and procedures regarding the Public Access Policy have evolved. These changes are summarized chronologically below.

May 2008

On May 2, 2008, NIH made the changes listed below to the NIH Public Access Policy Frequently Asked Questions (FAQs). These changes

provide clarifications and do not signify any changes in policy.

- Questions C7, C9, and C10 are new and reflect improvements to PubMed. These clarify and simplify how awardees can comply with the fifth specification of the NIH Public Access Policy, which states: "Beginning May 25, 2008, anyone submitting an application, proposal, or progress report to the NIH must include the PMC or NIH Manuscript Submission reference number when citing applicable articles that arise from their NIH-funded research. This policy includes applications submitted to the NIH for the May 25, 2008, due date and subsequent due dates."

- Questions A4, B10–B12, C8, C11, D5, E4, E5, F5, and F6 were developed based on questions received by NIH.

- NIH has responded to a number of questions about issues already addressed by the January 11, 2008, version of the FAQs and has made a number of small changes to many of these FAQ questions to improve their clarity. The biggest changes are in the wording of FAQs B1–B5.

- The January 11, 2008, FAQ uses the term "article" as a generic word for a peer-reviewed scientific publication and all its versions. At the March 20, 2008, Open Meeting, some stakeholders commented that "article" could be confused with the term "final published article." Therefore, this FAQ uses the term "paper" instead of "article." The Web site will be updated to reflect this change as well.

June 2008

The NIH updated the NIH Manuscript Submission System (NIHMS) in two ways:

- Authors, and not Program Directors/Principal Investigators (PDs/Pis), now approve manuscripts for posting. This change reduces the effort for PDs/Pis who are not authors of papers that arise from their award. It also allows these PDs/Pis to more effectively delegate submission duties to the author who is most familiar with the paper. PDs/Pis are now notified by e-mail when a manuscript is linked to one of their awards via the NIHMS.

- The NIH modified the NIHMS to allow publishers to fix the delay period when they submit a manuscript on behalf of their authors. Authors now must contact the NIH and their publisher if they wish to change the delay. The NIH expects this direct communication to result in fewer disagreements about delay periods. In response to concerns from NIH employee authors, the NIH developed procedures its employees can use to

ensure any manuscripts they write will be submitted in compliance with the Public Access Policy. These procedures are accessible at http://publicaccess.nih.gov/nih_employee_procedures.htm.

July 2008

The NIH made several updates to the NIH Public Access Web page to clarify the submission process. The Web site explains that there are four methods to ensure that a manuscript is submitted to PubMed Central in compliance with the NIH Public Access Policy. These methods vary based on the version of the paper submitted, and the actions undertaken by the author and publisher.

Method A: Publish in a journal that deposits all NIH-funded final published articles in PubMed Central (PMC) without author involvement.

Method B: Make arrangements to have a publisher deposit a specific final published article in PubMed Central.

Method C: Deposit the final peer-reviewed manuscript in PMC yourself via the NIH Manuscript Submission System (NIHMS).

Method D: Complete the submission process for a final peer-reviewed manuscript that the publisher has deposited in the NIH Manuscript Submission System (NIHMS).

August 2008

In response to questions and advice about identifying PubMed Central Identifiers (PMIDs), the National Library of Medicine created a new utility (<http://www.ncbi.nlm.nih.gov/sites/pmctopmid>) that uses PubMed IDs (PMIDs) to look up PMIDs, and vice versa. Users can enter PMIDs manually or from their PubMed clipboard. The utility will provide a table of PMIDs with corresponding PMIDs. For example, an author could look up all his/her publications in PubMed, save them to the clipboard, and use the utility to see which ones have PMIDs.

September 2008

The Request for Information analysis indicated that a number of FAQs developed in support of the previous voluntary policy remained relevant under the new Policy requirement. Accordingly these were slightly modified and reposted to the FAQs. They are:

A5. What are the benefits of posting peer-reviewed papers to PubMed Central?

F7. Why should there be a public resource of published peer-reviewed research findings of NIH-funded research?

F8. Rather than archive manuscripts in NIH's PubMed Central, why not provide links to other Web sites?

F9. Aren't scientific abstracts, which are currently freely available, sufficient? Why does the public need full-text articles?

F10. Will NIH's Public Access Policy harm scientific publishing?

F11. Will the NIH Public Access Policy harm the quality of peer review?

NIH also issued a Guide Notice NOT-OD-08-119 (<http://grants.nih.gov/grants/guide/notice-files/NOT-OD-08-119.html>) informing PDs/Pis and Institutional Business Officials that they may receive e-mails from NIH staff if their applications, proposals, or reports appear to be noncompliant with the NIH Public Access Policy. The Guide Notice also provides reminders about the instructions for citing literature in key NIH forms (e.g., the PHS398, SF424, PHS2590) and through eSNAP.

Current Status

The NIH Public Access Policy requirement took effect April 7, 2008, during the Request for Information, and after the Open Meeting. The NIH made a number of improvements based on the feedback it was receiving; the results of these efforts appear promising. The months following April 7, 2008, have been marked by increased participation from both publishers and authors, which has led to increased collection rates for eligible papers.

The NIH estimates that approximately 80,000 papers arise from NIH funds each year, and this total serves as the target for the Public Access Policy. One can gauge the progress of the implementation of the mandatory Policy by comparing the percentage of NIH-funded papers collected in the period April 2008 to August 2008 with the rate that was achieved under the voluntary Policy (May 2005 to December 2007).

As described at http://publicaccess.nih.gov/submit_process.htm, the NIH provides four methods for submitting papers under the Policy. With two of these (methods A and B) publishers voluntarily submit final published articles directly to PubMed Central. With the other two, (methods C and D) authors and publishers can submit final peer-reviewed manuscripts to PMC via the NIH Manuscript Submission System (NIHMS). As Figure 1 indicates, the estimated percentage of final published articles submitted directly to PubMed Central (methods A and B) has more than doubled under the new requirement as compared to the earlier voluntary policy. Rates rose from 12 percent to 26 percent.

The percentage of manuscripts collected via the NIH Manuscript Submission System (NIHMS, using methods C and D) more than quadrupled, from 7 percent under the voluntary policy to an estimated 30 percent under the requirement.

Overall, the Public Access success rate rose from 19 percent of all NIH-funded papers to 56 percent of all NIH-funded papers after the requirement took effect. These first five months show the promise of a Public Access Policy requirement, though the NIH and its awardees remain over 40 percent short of their statutory obligation to make NIH-funded papers available on PubMed Central. Also, while the NIH expects to post all 56 percent of these NIH papers, most of them will not be publicly available until 2009.

Future Activities

The NIH expects to continually monitor and refine the communications and procedures surrounding the NIH Public Access Policy. These changes will be governed by advice and feedback from stakeholders, questions to the help desk, and paper collections rates.

The NIH is exploring ways to enhance the utilities on PubMed and integrate them with bibliographic information on the eRA Commons Profile. For example, NLM just updated its search management tool (<http://www.ncbi.nlm.nih.gov/sites/myncbi/>). This service could eventually provide a way for PDs/PIs and other authors to track their papers that arise from NIH funds, associate them with NIH awards, and automatically obtain PMCID as they become available.

The NIH also is exploring ways to facilitate the reporting of papers arising from NIH awards by NIH project number. These services will help investigators and their institutions monitor compliance policy.

The NIH looks forward to continued interaction and advice from the many public access stakeholders. Comments and questions may be directed to PublicAccess@NIH.gov.

Note: a full version of this report is available at http://publicaccess.nih.gov/analysis_of_comments_nih_public_access_policy.pdf.

Dated: February 10, 2009.

Raynard S. Kington,

Acting Director, National Institutes of Health.
[FR Doc. E9-3442 Filed 2-17-09; 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. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ELSI Microbiome.

Date: February 27, 2009.

Time: 1:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard A. Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1108, MSC 7890, Bethesda, MD 20892, (301) 435-1219, currieri@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cardiovascular Devices.

Date: March 2, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 W. Mission Bay Drive, San Diego, CA 92109.

Contact Person: Roberto J. Matus, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, 301-435-2204, matusr@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Disease Models, Astrocytes, and Neurodegeneration.

Date: March 3-5, 2009.

Time: 3 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joanne T. Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435-1178, fujii@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Applications for Nursing Sciences.

Date: March 6, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ellen K. Schwartz, EDD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7770, Bethesda, MD 20892, 301-435-0681, schwarte@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: AIDS and Related Research Integrated Review Group, AIDS-associated Opportunistic Infections and Cancer, Study Section.

Date: March 9, 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: Eduardo A. Montalvo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435-1168, montalve@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Technology Centers for Networks and Pathways.

Date: March 9-10, 2009.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Marc Rigas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7849, Bethesda, MD 20892, 301-402-1074, rigasm@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict Special Emphasis Panel.

Date: March 9-10, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rass M. Shayiq, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435-2359, shayiqr@csr.nih.gov.

Name of Committee: AIDS and Related Research Integrated Review Group, HIV/AIDS Vaccines Study Section.

Date: March 11, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Suites Palm Springs, 285 North Palm Canyon Drive, Palm Springs, CA 92262.

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435-1165, walkermc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Physiology and Pathobiology of Musculoskeletal, Oral, and Skin Systems.

Date: March 12, 2009.

Time: 8 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2183, MSC 7818, Bethesda, MD 20892, 301-435-2365, aitouchea@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Software Maintenance and Extension.

Date: March 16-17, 2009.

Time: 6 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Quincy Hotel, 1823 L Street, NW., Washington, DC 20036 (Virtual Meeting).

Contact Person: George W. Chacko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7849, Bethesda, MD 20892, 301-435-1245, chackoge@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Molecular Probes for Microscopy of Cells.

Date: March 18-19, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Amy L. Rubinstein, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 5152 MSC 7844, Bethesda, MD 20892, 301-435-1159, rubinsteinal@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Infectious Diseases Microbiology Fellowships.

Date: March 19-20, 2009.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alexander D. Politis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435-1150, politisa@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: February 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3300 Filed 2-17-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 2, 2009, 12 p.m. to February 2, 2009, 1 p.m., Mayflower Park Hotel, 405 Olive Way, Seattle, WA, 98101 which was published in the **Federal Register** on January 16, 2009, 74 FR 3064-3065.

The meeting will be held February 27, 2009, from 2 p.m. to 4 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: February 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3304 Filed 2-17-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, February 24, 2009, 11 a.m. to February 25, 2009, 12 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 5, 2009, 74 FR 6166-6169.

The meeting title has been changed to "Brain Injury Member SEP". The meeting is closed to the public.

Dated: February 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3305 Filed 2-17-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, R13 Conference Grant Review.

Date: March 19, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 8041, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Bratin K. Saha, PhD, Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd. Room 8041, Bethesda, MD 20892, (301) 402-0371, sahab@mail.nih.gov.

Name of Committee: National Cancer Institute Special Emphasis Panel, Quantitative Tissue Imaging for Clinical Diagnosis and Treatment.

Date: March 19, 2009.

Time: 12:01 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6130 Executive Blvd., Conference Room J, Rockville, MD 20852 (Telephone Conference Call)

Contact Person: Michael B. Small, PhD, Scientific Review Officer, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd., Room 8127, Bethesda, MD 20892-8328, 301-402-0996, smallm@mail.nih.gov.

Name of Committee: National Cancer Institute Special Emphasis Panel, Novel and Improved Methods for Detecting Epigenetic Modifications.

Date: March 26, 2009.

Time: 9 a.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Suite 800, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Ilda M. Mckenna, PhD, Scientific Review Officer, Research Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard Room 8111, Bethesda, MD 20892, 301-496-7481, mckennai@mail.nih.gov.

Name of Committee: National Cancer Institute Special Emphasis Panel, Multifunctional Therapeutics Based on Nanotechnology (Phase II).

Date: April 7, 2009.

Time: 8:30 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: M Street Renaissance Hotel—Marriott, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Irina V. Gordienko, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard Room 7073, Bethesda, MD 20892, 301-594-1566, gordienkoiv@mail.nih.gov.

Name of Committee: National Cancer Institute Special Emphasis Panel, Exceptional, Unconventional Research Enabling Knowledge Acceleration (EUREKA).

Date: April 9, 2009.

Time: 2 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Bratin K. Saha, PhD, Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8041, Bethesda, MD 20892, (301) 402-0371, sahab@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3313 Filed 2-17-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel; Research Web Portal.

Date: March 19, 2009.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Guo Zhang, MD, PhD, Scientific Review Officer, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Rm. 1064, Bethesda, MD 20892-4874, 301-435-0812, zhanggu@mail.nih.gov.

Name of Committee: National Center for Research Resources Special Emphasis Panel; Conference Grants 1.

Date: March 19, 2009.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Lee Warren Slice, PhD, Scientific Review Officer, Office of Review, National Center for Research Resources, Bethesda, MD 20892, 301-435-0965.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: February 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3435 Filed 2-17-09; 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; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders B.

Date: February 26–27, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Catamaran Resort Hotel Spa, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Ernest W Lyons, PhD, Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892-9529, 301-496-4056.

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: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders C.

Date: February 26–27, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Portofino Hotel & Yacht Club, 260 Portofino Way, Redondo Beach, CA 90277.

Contact Person: William C. Benzing, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 496-0660, benzingw@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Neurological Sciences Training Initial Review Group, NST-2 Subcommittee.

Date: March 2–3, 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: Joann McConnell, PhD, Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 496–5324, mcconnej@ninds.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: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders A.

Date: March 4–5, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bay Club Hotel Marina, 2131 Shelter Island Drive, San Diego, CA 92106.

Contact Person: Richard D. Crosland, PhD, Scientific Review Officer, Scientific Review Branch, Division Of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

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: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, R25 Diversity.

Date: March 4, 2009.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Phillip F Wiethorn, Scientific Review Administrator, DHHS/NIH/NINDS/DER/SRB, 6001 Executive Boulevard; MSC 9529, Neuroscience Center; Room 3203, Bethesda, MD 20892–9529, (301) 496–5388, wiethorp@ninds.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3306 Filed 2–17–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH R34 AIDS Application Review.

Date: March 13, 2009.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health NIMH, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Enid Light, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6132, MSC 9608, Bethesda, MD 20852–9608, 301–443–0322, elight@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3312 Filed 2–17–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice

is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Mental Disorders.

Date: March 18, 2009.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Francois Boller, MD, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, md 20892–9606, 301–443–1513, bollefr@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3314 Filed 2–17–09; 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. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Anemia.

Date: March 10, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway, 7201 Wisconsin Ave., 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alicja L Markowska, PhD, DSC, Scientific Review Officer, Scientific Review Branch, National Institute On Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301-496-9666, markowska@nia.nih.gov.

Name of Committee: National Institute on Aging Special Emphasis Panel, EUREKA.

Date: March 23, 2009.

Time: 12 p.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Chief, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C-212, Bethesda, MD 20892, 301-402-7700, rv23r@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3317 Filed 2-17-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Population Research Infrastructure Program.

Date: March 13, 2009.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC.

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 435-6911, hopmannm@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3420 Filed 2-17-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review U13, Conference Cooperative Agreement.

Date: April 15, 2009.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6706 Democracy Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Kelly, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, NIH 6701 Democracy Blvd, Room 672, MSC 4878, Bethesda, MD 20892-4878, 301-594-4809, mary_kelly@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-3421 Filed 2-17-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Allergy and Infectious Diseases Special Emphasis Panel; Ancillary Studies in Immunomodulation Clinical Trials.

Date: March 13, 2009.

Time: 2 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Paul A. Amstad, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, DHHS/National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892-7616, 301-402-7098, pamstad@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 11, 2009.

Jennifer Spaeth,

*Director, Office of Federal Advisory
Committee Policy.*

[FR Doc. E9-3430 Filed 2-17-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Department of Homeland Security— Vulnerability Identification Self- Assessment Tool—Transportation (DHS-VISAT-T)

AGENCY: Transportation Security
Administration, DHS.

ACTION: 30 day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), OMB control number 1652-0037, abstracted below to the Office of Management and Budget (OMB) for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on December 24, 2008, 73 FR 79148. The collection allows TSA to collect data from transportation asset owners or operators on security measures deployed and their effectiveness.

DATES: Send your comments by March 20, 2009. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: Ginger LeMay, Office of Information Technology, TSA-11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598-6011; telephone (571) 227-3616; e-mail ginger.lemay@dhs.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at <http://www.reginfo.gov>. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Department of Homeland Security—Vulnerability Identification Self-Assessment Tool—Transportation (DHS-VISAT-T).

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652-0037.

Forms(s): NA.

Affected Public: Transportation Sectors.

Abstract: The DHS-VISAT-T (formerly the TSA Self-Assessment Risk Module (TSARM)) was developed to assist all modes of transportation asset owners/operators in developing a security plan and in performing a vulnerability assessment of their asset(s). The tool is designed to be user-friendly, web-based, and is provided at no cost to transportation owner and operators. The tool captures a snapshot of the asset's baseline security posture and assists the stakeholder in conducting a vulnerability assessment and completing a comprehensive security plan. TSA designed this tool to be flexible to support the unique characteristics of each transportation mode, while still providing a common framework from which analysis and trends can be identified. Thus far, TSA has developed modules of the tool for maritime, mass transit, highway bridges, and rail passenger stations, with more in development.

Users have the option to submit the completed assessment to TSA. If

submitted, TSA reviews the assessment for consistency and provides feedback to the users. Submitted assessments are then used to conduct analysis of the industry standard and to provide cross sector analysis of multiple modes.

Number of Respondents: 1,000.

Estimated Annual Burden Hours: An estimated 8,000 hours annually.

Issued in Arlington, Virginia, on February 12, 2009.

Ginger LeMay,

Paperwork Reduction Act Officer, Business Improvements and Communications, Office of Information Technology.

[FR Doc. E9-3443 Filed 2-17-09; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Extension of the Approval of Information Collection Requirements

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its proposal to extend OMB approval of the information collection: Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act (ESA-100, LS-200, LS-201, LS-203, LS-204, LS-262, LS-267, LS-271, LS-274, LS-513). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before April 20, 2009.

ADDRESSES: Mr. Steven D. Lawrence, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0292, fax (202) 693-1451, E-mail

Lawrence.Steven@dol.gov. Please use only one method of transmission for comments (mail, fax, or E-mail).

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act (LHWCA). LHWCA provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several Acts extend the Longshore Act's coverage to certain other employees. The following regulations have been developed to implement the Act's provisions and to provide clarification in those areas where it was deemed necessary (20 CFR 702.162, 702.174, 702.175, 20 CFR 702.242, 20 CFR 702.285, 702.321, 702.201, and 702.111). In some cases, prior regulations have been updated and changed either to reflect the intent of the amended Act or to correct recognized deficiencies.

This information collection is currently approved for use through August 31, 2009.

II. Review Focus: The DOL 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 submissions of responses.

III. Current Actions: The DOL seeks the approval for the extension of this currently approved information collection.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act.

OMB Number: 1215-0160.

Agency Number: (ESA-100, LS-200, LS-201, LS-203, LS-204, LS-262, LS-267, LS-271, LS-274, LS-513).

Affected Public: Individuals or households, Businesses or other for-profit.

Total Respondents: 181,956.

Total Responses: 181,956.

Time Per Response: 37 minutes.

Frequency: On Occasion and Annually.

Estimated Total Burden Hours: 66,536.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$68,585.

Burden summary	Hours
LS-200 (20 CFR 702.285) ...	2,440
20 CFR 702.162 (Liens)	5
20 CFR 702.174 (Certifications)	4
20 CFR 702.175 (Reinstatements)	1
20 CFR 702.242 (Settlement Applications)	10,080
20 CFR 702.321 (Section 8(f) Payments)	2,425
ESA-100 (20 CFR 702.201)	840
LS-271 (Self Insurance Application)	40
LS-274 (Injury Report of Insurance Carrier and Self-Insured Employer)	563
LS-201 (Injury or Death Notice)	1,150
LS-513 (Payment Report)	282
LS-267 (Claimant's Statement)	48
LS-203 (Employee Comp. Claim)	2,588
LS-204 (Medical Report)	46,000
LS-262 (Claim for Death Benefits)	70
Total Burden Hours	66,536

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 12, 2009.

Hazel Bell,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E9-3432 Filed 2-17-09; 8:45 am]

BILLING CODE 4510-CF-P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Extension of the Approval of Information Collection Requirements

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning its proposal to extend the Office of Management and Budget (OMB) approval of the Information Collection: Notice of Termination, Suspension, Reduction or Increase in Benefit Payments (CM-908). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before April 20, 2009.

ADDRESSES: Mr. Steven D. Lawrence, U.S. Department of Labor, 200 Constitution Ave., NW., Room S-3201, Washington, DC 20210, telephone (202) 693-0292, fax (202) 693-1451, E-mail Lawrence.Steven@dol.gov. Please use only one method of transmission for comments (mail, fax, or E-mail).

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) administers the Federal Mine Safety and Health Act of 1977 as amended, Section 432 (30 U.S.C. 942) and 20 CFR 725.621 necessitate this information collection. Under this Act, Coal mine operators, their representatives, or their insurers who have been identified as responsible for paying Black Lung benefits to an eligible miner or an eligible surviving dependent of the miner, are called Responsible Operators (RO's). RO's that pay benefits are required to report any change in the benefit amount to the Department of Labor (DOL). The CM-

908, when completed and sent to DOL, notifies DOL of the change in the beneficiary's benefit amount and the reason for the change. The Federal Mine Safety and Health Act of 1977 as amended, Section 432 (30 U.S.C. 942) and 20 CFR 725.621 necessitate this information collection. This information collection is currently approved for use through August 31, 2009.

II. Review Focus: The Department of Labor 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 submissions of responses.

III. Current Actions: The Department of Labor seeks the approval of the extension of this information collection in order to carry out its responsibility to assure payment of compensation benefits to injured workers at the proper rate.

Type of Review: Extension.

Agency: Employment Standards Administration.

Titles: Notice of Termination, Suspension, Reduction or Increase in Benefit Payments (CM-908).

OMB Number: 1215-0064.

Agency Numbers: CM-908.

Affected Public: Business or other for-profit.

Total Respondents: 325.

Total Annual Responses: 7,000.

Estimated Total Burden Hours: 1,400.

Estimated Time per Response: 20

minutes.

Frequency: On occasion and annually.

Total Burden Cost (Capital/Startup): \$0.

Total Burden Cost (Operating/Maintenance): \$6,300.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 12, 2009.

Hazel Bell,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E9-3434 Filed 2-17-09; 8:45 am]

BILLING CODE 4510-CK-P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Paperwork Reduction Act; Notice of Intent To Collect; Comment Request; Summary of Comments

AGENCY: Office of National Drug Control Policy (ONDCP).

ACTION: Notice and request for comments.

SUMMARY: ONDCP invites comments on a collection of information.

ADDRESSES: You may submit comments directly to the Desk Officer for the ONDCP, Office of Information and Regulatory Affairs, OMB by fax at (202) 395-6566, or by electronic mail at aira_docket@omb.eop.gov.

SUPPLEMENTARY INFORMATION: During the first comment period, ONDCP received the following from the Marijuana Policy Project (MPP) concerning the National Youth Anti-Drug Media Campaign (hereafter NYADMC or "Campaign").

1. Data on which NYADMC is evaluated is unreliable; and researchers find self-report measures largely suspect.

2. Return to the Westat Analysis Methodology.

3. ONDCP should employ automated collection techniques to broaden the range of comments and reaction to proposed advertising campaigns; and consider the use of informal methodologies for measuring the success of the campaign.

4. The ONDCP NYADMC's near-exclusive focus on marijuana is premised on a fallacious conclusion of cause-and-effect (The "Gateway Theory").

ONDCP responds in turn to each of the four comments.

1. The collection of information is not designed to measure the effectiveness of the overall Campaign. The collection of information is intended only as part of the advertisement development process. This process is conducted by industry-leading third-party vendors. Moreover, the Institutional Review Board reviewed the process to ensure it satisfies scientific, ethical, and Federal regulatory requirements.

2. ONDCP will continue to measure the overall effectiveness of the Campaign using an independent contractor. Westat is eligible to submit a proposal on the award of the impending solicitation. However, ONDCP may not solicit a proposal solely from Westat.

3. ONDCP agrees that automated collection techniques can cultivate new ideas, gauge reactions and quickly spot potential problems. Consequently, the Campaign's current Web sites prompt reactions to Campaign advertising, and encourage suggestions for improvement. Similarly, the data collection instruments under consideration here solicit open-ended feedback to advertising executions from members of the target audience.

4. The Campaign dispels the mistaken belief that teen substance abuse has no negative consequences, and conveys the fact that marijuana is a serious drug. Marijuana continues to be the illicit substance most widely abused by our nation's youth, and such abuse has adverse health, safety, social, academic, economic and behavioral consequences.

Based on the comments received, ONDCP intends to proceed with its collection of information as initially proposed.

Signed on February 11, 2009.

Daniel R. Petersen,

Assistant General Counsel.

[FR Doc. E9-3311 Filed 2-17-09; 8:45 am]

BILLING CODE 3180-02-P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of February 16, 23, March 2, 9, 16, 23, 2009.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of February 16, 2009

Tuesday, February 17, 2009

1:25 p.m.

Affirmation Session (Public Meeting) (Tentative).

a. Final Rule: Consideration of Aircraft Impacts for New Nuclear Power Reactors (RIN 3150-AI19) (Tentative).

b. Final Rule: 10 CFR Part 63, (Implementation of a Dose Standard After 10,000 Years) (RIN 3150-AH68) (Tentative).

- c. *Tennessee Valley Authority* (Bellefonte Nuclear Power Plant Units 3 and 4), LBP-08-16 (Ruling on Standing, Hearing Petition Timeliness, and Contention Admissibility) (Sept. 12, 2008) (Tentative).
- d. *Detroit Edison Co.* (Fermi Unit 3)—Various Procedural Requests (Tentative).

Week of February 23, 2009—Tentative

There are no meetings scheduled for the week of February 23, 2009.

Week of March 2, 2009—Tentative

Friday, March 6, 2009

9:30 a.m.

Briefing on Guidance for Implementation of Security Rulemaking (Public Meeting) (Contact: Rich Correia, 301-415-7674).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>. 1:30 p.m.

Briefing on Guidance for Implementation of Security Rulemaking (Closed—Ex. 3).

Week of March 9, 2009—Tentative

There are no meetings scheduled for the week of March 9, 2009.

Week of March 16, 2009—Tentative

There are no meetings scheduled for the week of March 16, 2009.

Week of March 23, 2009—Tentative

There are no meetings scheduled for the week of March 23, 2009.

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Rochelle Baval, (301) 415-1651.

* * * * *

Additional Information

By a vote of 4-0 on February 12, 2009, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of: d. *Detroit Edison Co.* (Fermi Unit 3)—Various Procedural Requests (Tentative) be held February 17, 2009, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/about-nrc/policy-making/schedule.html>.

* * * * *

The NRC provides reasonable accommodation to individuals with

disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301-492-2279, TDD: 301-415-2100, or by e-mail at rohn.brown@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to darlene.wright@nrc.gov.

Dated: February 12, 2009.

Rochelle C. Baval,

Office of the Secretary.

[FR Doc. E9-3489 Filed 2-13-09; 4:15 pm]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, February 19, 2009 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The Acting General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting scheduled for Thursday, February 19, 2009 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

Dated: February 12, 2009.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E9-3467 Filed 2-17-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59396; File No. SR-NASDAQ-2009-004]

Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Consolidating Into a Single Rule Certain Requirements for Products Traded on the Exchange Pursuant to Unlisted Trading Privileges

February 11, 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 January 30, 2009, NASDAQ Stock Market LLC ("Nasdaq" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to adopt rules reflecting the requirements for trading products on the Exchange pursuant to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

unlisted trading privileges (“UTP”) that have been established in various new product proposal previously approved by the Commission.

The text of the proposed rule change is available from Nasdaq’s Web site at <http://nasdaq.cchwallstreet.com>, at Nasdaq’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Exchange proposes to amend its rules to reflect certain requirements for trading products on the Exchange pursuant to UTP that have been established in various new product proposals previously approved by the Commission. The Exchange is amending and moving part of the introductory language of Equity Rule 4420 to become introductory language to Equity Rule 4421 to provide that it may extend UTP to any security that is an NMS Stock (as defined in Rule 600 of Regulation NMS) that is listed on another national securities exchange, as well as to consolidate the UTP concept within the rulebook. Any such security will be subject to all of the Exchange’s trading rules applicable to NMS Stocks, unless otherwise noted, including the provisions of Equity Rules 4120, 4420, 4630, and new Rule 4421 described below. The Exchange will file with the Commission a Form 19b-4(e) with respect to any such security that is a “new derivative securities product” as defined in Rule 19b-4(e) under the Act⁵ (defined as a “UTP Derivative Security”). In addition, any new derivative securities product traded on the Exchange will be subject to the criteria described below.

Proposed Equity Rule 4421(a)(2) provides that the Exchange will

distribute an information circular prior to the commencement of trading in a UTP Derivative Security, which generally will include the same information as the information circular provided by the listing exchange, including: (1) The special risks of trading the UTP Derivative Security; (2) The Rules of the Exchange that will apply to the UTP Derivative Security, including Equity Rule 2310, the Exchange’s suitability rule; (3) information about the dissemination of the value of the underlying assets or indexes; and (4) the applicable trading hours for the UTP Derivative Security and risks of trading during the Exchange’s pre-market session (7 a.m. to 9:30 a.m.) and post-market session (4 p.m. to 8 p.m.) due to the lack of calculation or dissemination of the underlying index value, the intraday indicative value, or a similar value.

Proposed Equity Rule 4421(a)(3)(A) reminds Members⁶ that they are subject to the prospectus delivery requirements under the Securities Act of 1933, as amended (the “Securities Act”), unless a UTP Derivative Security is the subject of an order by the Commission exempting the product from certain prospectus delivery requirements under Section 24(d) of the Investment Company Act of 1940 (the “1940 Act”) and the product is not otherwise subject to prospectus delivery requirements under the Securities Act. The Exchange will inform its Members of the application of these provisions to a particular UTP Derivative Security governed by the 1940 Act by means of an information circular.

The Exchange is amending Equity Rule 4120(b) to more fully address trading halts in UTP Derivative Securities traded on the Exchange pursuant to UTP. As currently in effect, Rule 4120(b) provides for trading halts of “Derivative Securities Products,” which are defined as a series of Portfolio Depository Receipts, Index Fund Shares, Managed Fund Shares, Trust Issued Receipts, Commodity-Related Securities, or securities representing interests in unit investment trusts or investment companies. Although this definition covers a wide range of products that would be considered UTP Derivative Securities, for the avoidance of doubt, the Exchange is explicitly amending the definition to include all UTP Derivative Securities. The current rule also contains a definition of “Required Value” and provides for trading halts in certain circumstances where a Required Value is not being

disseminated. Currently, “Required Value” is defined to mean “(i) The value of any index or any commodity-related value underlying a Derivative Security Product and (ii) the indicative optimized portfolio value, intraday indicative value, or other comparable estimate of the value of a share of a Derivative Securities Product updated regularly during the trading day.” The Exchange proposes to amend the definition to also include “(iii) a net asset value in the case of a Derivative Securities Product for which a net asset value is disseminated, and (iv) a ‘disclosed portfolio’ in the case of a Derivative Securities Product that is a series of managed fund shares or actively managed exchange-traded funds for which a disclosed portfolio is disseminated.”

Thus, as amended, the rule provides that the Exchange, upon notification by the listing market of a halt due to a temporary interruption in the calculation or wide dissemination of a Required Value for a Derivative Securities Product, will immediately halt trading in that product on the Exchange. If the Required Value continues not to be calculated or widely disseminated at the commencement of trading on the Exchange on the next business day, the Exchange shall not commence trading of the product on that day. If an interruption in the calculation or wide dissemination of the Required Value continues, the Exchange may resume trading in the Derivative Securities Product only if calculation and wide dissemination of the Required Value resumes or trading in such product resumes on the listing market.

The Exchange is also amending Equity Rule 4630, which governs the activities of registered market makers in Commodity-Related Securities. A “Commodity-Related Security” is defined to mean a security that is issued by a trust, partnership, commodity pool or similar entity that invests, directly or through another entity, in any combination of commodities, futures contracts, options on futures contracts, forward contracts, commodity swaps, or other related derivatives, or the value of which is determined by the value of commodities, futures contracts, options on futures contracts, forward contracts, commodity swaps, or other related derivatives. A “commodity” is defined in Section 1(a)(4) of the Commodity Exchange Act, a definition that includes currencies. As amended, the rule provides that a registered market maker in a Commodity-Related Security is prohibited from acting or registering as a market maker in any commodities, futures contracts, options on futures

⁶ A Member is any registered broker-dealer that has been admitted to membership in the Exchange.

⁵ 17 CFR 240.19b-4(e).

contracts, forward contracts, commodity swaps, or other related derivatives underlying such Commodity-Related Security. The rule further provides that a member acting as a registered market maker in a Commodity-Related Security must file with the Exchange's Regulation Department in a manner prescribed by such Department and keep current a list identifying all accounts for trading in commodities, futures contracts, options on futures contracts, forward contracts, commodity swaps, or other related derivatives underlying such Commodity-Related Security, in which the market maker holds an interest, over which it may exercise investment discretion, or in which it shares in the profits and losses. No market maker shall trade in, or exercise investment discretion with respect to, such underlying commodities, futures contracts, options on futures contracts, forward contracts, commodity swaps, or other related derivatives, in an account in which a market maker, directly or indirectly, controls trading activities, or has an interest in the profits or losses thereof, that has not been reported as required by the Rule.

In addition, a member acting as a registered market maker in a Commodity-Related Security is obligated to establish adequate information barriers when such market maker engages in communications to other departments within the same firm or the firm's affiliates that involve trading in commodities, futures contracts, options on futures contracts, forward contracts, commodity swaps, or other related derivatives underlying such Commodity-Related Security. The member acting as a registered market maker in a Commodity-Related Security shall make available to the Exchange's Regulation Department such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading commodities, futures contracts, options on futures contracts, forward contracts, commodity swaps, or other related derivatives underlying such Commodity-Related Security, as may be requested by the Regulation Department. Finally, in connection with trading a Commodity-Related Security or commodities, futures contracts, options on futures contracts, forward contracts, commodity swaps, or other related derivatives underlying a Commodity-Related Security, the member acting as a market maker in a Commodity-Related Security shall not use any material nonpublic

information received from any person associated with the member or employee of such person regarding trading by such person or employee in the commodities, futures contracts, options on futures contracts, forward contracts, commodity swaps, or other related derivatives underlying such Commodity-Related Security.

The Exchange represents that its surveillance procedures for UTP Derivative Securities traded on the Exchange will be similar to the procedures used for equity securities traded on the Exchange and will incorporate and rely upon existing Exchange surveillance procedures. The Exchange will closely monitor activity in UTP Derivative Securities traded on the Exchange pursuant to UTP to deter any potential improper trading activity. The proposed rule change also provides that the Exchange will enter into a comprehensive surveillance sharing agreement ("CSSA") with a market trading components of the index or portfolio on which the UTP Derivative Security is based to the same extent as the listing exchange's rules require the listing market to enter into a CSSA with such market.

Finally, the Exchange is amending provisions of Equity Rule 4120 and 4630 that stipulate that the Exchange will file separate proposals under Section 19(b)(2) of the Act for each issue of Managed Fund Shares or Commodity-Based Securities that it trades on a UTP basis. Because the new rules being adopted by the Exchange consolidate the requirements for trading such securities that have been established in new product proposals previously approved by the Commission, separate proposals under Section 19(b)(2) of the Act are no longer required for trading these securities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁷ in general and with Section 6(b)(5) of the Act,⁸ in particular, in that it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by providing for the trading of securities, including UTP Derivative Securities, on the Exchange pursuant to UTP, subject to consistent and reasonable standards.

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that such waiver is consistent with the protection of investors and the public interest because such waiver should benefit investors by creating, without undue delay, additional competition in the trading of UTP Derivative Securities, subject to consistent and reasonable standards. The proposed rule change is modeled closely after similar rules of other national securities exchanges¹¹ and does not raise any novel or significant regulatory issues. Therefore, the Commission designates the proposed rule change as operative upon filing.¹²

At any time within 60 days of the filing of the proposed rule change the

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, as required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the filing of the proposed rule change.

¹¹ See NSX Rule 15.9 and Securities Exchange Act Release No. 57448 (March 6, 2008), 73 FR 13597 (March 13, 2008) (SR-NSX-2008-05); ISE Rule 2101 and Securities Exchange Act Release No. 57387 (February 27, 2008), 73 FR 11965 (March 5, 2008) (SR-ISE-2007-99); and BATS Rule 14.1 and Securities Exchange Act Release No. 58623 (September 23, 2008), 73 FR 57169 (October 1, 2008) (SR-BATS-2008-004).

¹² For purposes only of waiving the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-NASDAQ-2009-004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NASDAQ-2009-004. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-NASDAQ-2009-004 and should be submitted on or before March 11, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-3484 Filed 2-17-09; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11651]

Oregon Disaster # OR-00027 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Oregon, dated 02/11/2009.

Incident: Severe Winter Storm System.

Incident Period: 12/14/2008 through 01/04/2009.

DATES: *Effective Date:* 02/11/2009.

EIDL Loan Application Deadline Date: 11/12/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Columbia, Hood River, Multnomah, Washington.

Contiguous Counties:

Oregon: Clackamas, Clatsop, Tillamook, Wasco, Yamhill.

Washington: Clark, Cowlitz, Klickitat, Skamania, Wahkiakum.

The Interest Rate is: 4.000.

The number assigned to this disaster for economic injury is 116510.

The States which received an EIDL Declaration # are Oregon, Washington.

(Catalog of Federal Domestic Assistance Number 59002)

Darryl K. Hairston,

Acting Administrator.

[FR Doc. E9-3404 Filed 2-17-09; 8:45 am]

BILLING CODE 8025-01-P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2008-0062]

Social Security Ruling, SSR 09-2p.; Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are giving notice of SSR 09-2p. This SSR provides policy interpretations and consolidates information from our regulations, training materials, and question-and-answer documents about documenting and evaluating evidence of a child's impairment-related limitations and related issues.

DATES: *Effective Date:* March 20, 2009

FOR FURTHER INFORMATION CONTACT: Robin Doyle, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 966-2771.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

SSRs make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, special veterans benefits, and black lung benefits programs. SSRs may be based on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will be in effect until we publish a notice in the **Federal Register** that rescinds it, or publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program No. 96.006 Supplemental Security Income.)

¹³ 17 CFR 200.30-3(a)(12).

Dated: February 9, 2009.

Michael J. Astrue,

Commissioner of Social Security.

Policy Interpretation Ruling

Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations

Purpose: This SSR provides policy interpretations and consolidates information from our regulations, training materials, and question-and-answer documents about documenting and evaluating evidence of a child's impairment-related limitations and related issues.

Citations (Authority): Sections 1614(a)(3) and 1614(a)(4) of the Social Security Act, as amended; Regulations No. 4, subpart P, appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.906, 416.909, 416.912, 416.913, 416.923, 416.924, 416.924a, 416.924b, 416.925, 416.926, 416.926a, and 416.994a.

Introduction: A child¹ who applies for Supplemental Security Income (SSI)² is "disabled" if the child is not engaged in substantial gainful activity and has a medically determinable physical or mental impairment or combination of impairments³ that results in "marked and severe functional limitations."⁴ 20 CFR 416.906. This means that the impairment(s) must meet or medically equal a listing in the Listing of Impairments (the listings),⁵ or functionally equal the listings (also referred to as "functional equivalence"). 20 CFR 416.924 and 416.926a.

As we explain in greater detail in SSR 09-1p, we always evaluate the "whole child" when we make a finding regarding functional equivalence, unless we can otherwise make a fully favorable

determination or decision.⁶ We focus first on the child's activities, and evaluate how appropriately, effectively, and independently the child functions compared to children of the same age who do not have impairments. 20 CFR 416.926a(b) and (c). We consider what activities the child cannot do, has difficulty doing, needs help doing, or is restricted from doing because of the impairment(s). 20 CFR 416.926a(a). Activities are everything a child does at home, at school, and in the community, 24 hours a day, 7 days a week.⁷

We next evaluate the effects of a child's impairment(s) by rating the degree to which the impairment(s) limits functioning in six "domains." Domains are broad areas of functioning intended to capture all of what a child can or cannot do. We use the following six domains:

- (1) Acquiring and using information,
 - (2) Attending and completing tasks,
 - (3) Interacting and relating with others,
 - (4) Moving about and manipulating objects,
 - (5) Caring for yourself, and
 - (6) Health and physical well-being.
- 20 CFR 416.926a(b)(1).⁸

To functionally equal the listings, an impairment(s) must be of listing-level severity; that is, it must result in "marked" limitations in two domains of functioning or an "extreme" limitation in one domain.⁹ 20 CFR 416.926a(a).

This SSR explains the evidence we need to document a child's impairment-related limitations, the sources of evidence we commonly see in

⁶ See SSR 09-1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The "Whole Child" Approach.

⁷ However, some children have chronic physical or mental impairments that are characterized by episodes of exacerbation (worsening) and remission (improvement); therefore, their level of functioning may vary considerably over time. To properly evaluate the severity of a child's limitations in functioning, as described in the following paragraphs, we must consider any variations in the child's level of functioning to determine the impact of the chronic illness on the child's ability to function longitudinally; that is, over time. For more information about how we evaluate the severity of a child's limitations, see SSR 09-1p.

⁸ For the first five domains, we describe typical development and functioning using five age categories: Newborns and young infants (birth to attainment of age 1); older infants and toddlers (age 1 to attainment of age 3); preschool children (age 3 to attainment of age 6); school-age children (age 6 to attainment of age 12); and adolescents (age 12 to attainment of age 18). We do not use age categories in the sixth domain because that domain does not address typical development and functioning, as we explain in SSR 09-8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Health and Physical Well-Being."

⁹ See 20 CFR 416.926a(e) for definitions of the terms "marked" and "extreme."

childhood disability cases, how we consider the evidence we receive from early intervention and school programs (including special education), how we address inconsistencies in the evidence, and other issues related to the development of evidence about functioning.¹⁰

Policy Interpretation

I. General

We use evidence of a child's functioning to determine whether the child's medically determinable impairment(s):

- Is "severe"—that is, causes more than minimal functional limitations (20 CFR 416.924(c));
- Meets or medically equals a listed impairment when the listing criteria include functioning (20 CFR 416.924a(b)(1)); and
- Functionally equals the listings (20 CFR 416.926a).

When we consider functioning in children, we evaluate how the impairment(s) affects the ability to function age-appropriately. A child functions age-appropriately when initiating, sustaining, and completing age-appropriate activities. "Functioning" includes everything a child does throughout a day at home, at school, and in the community. Examples include, getting dressed for school, cooperating with caregivers, playing with friends, and doing class assignments.

As we explain in Section III below, evidence of a child's functioning can come from a wide variety of sources. We will consider all of the relevant evidence we receive about a child's functioning to help us understand how the impairment(s) affects the child's day-to-day activities.

II. What Evidence Do We Need About a Child's Impairment-Related Limitations?

We need evidence that is sufficient to evaluate a child's limitations on a longitudinal basis; that is, over time. This evidence will help us answer the following questions about whether the child's impairment(s) affects day-to-day functioning and whether the child's activities are typical of other children of the same age who do not have impairments. Accordingly, we need evidence to help us determine the following:

- What activities is the child able to perform?
- What activities is the child not able to perform?

¹⁰ For more information about the domains, see the cross-references at the end of this SSR.

¹ The definition of disability in section 1614(a)(3)(C) of the Social Security Act (the Act) applies to any "individual" who has not attained age 18. In this SSR, we use the word "child" to refer to any such person, regardless of whether the person is considered a "child" for purposes of the SSI program under section 1614(c) of the Act.

² For simplicity, we refer in this SSR only to initial claims for benefits. However, the policy interpretations in this SSR also apply to continuing disability reviews of children under section 1614(a)(4) of the Act and 20 CFR 416.994a.

³ We use the term "impairment(s)" in this SSR to refer to an "impairment or a combination of impairments."

⁴ The impairment(s) must also satisfy the duration requirement in section 1614(a)(3)(A) of the Act; that is, it must be expected to result in death, or must have lasted or be expected to last for a continuous period of not less than 12 months.

⁵ For each major body system, the listings describe impairments we consider severe enough to cause "marked and severe functional limitations." 20 CFR 416.925(a); 20 CFR part 404, subpart P, appendix 1.

- Which of the child's activities are limited or restricted compared to other children of the same age who do not have impairments?
- Where does the child have difficulty with activities—at home, in childcare, at school, or in the community?
- Does the child have difficulty independently initiating, sustaining, or completing activities?
- What kind and how much help does the child need to do activities, and how often does the child need it?
- Does the child need a structured or supportive setting, what type of structure or support does the child need, and how often does the child need it?

We do not require our adjudicators to provide formal answers to these specific questions in the determination or decision. However, the evidence should create a clear picture of the child's functioning in the context of the six functional equivalence domains so that we can determine the severity of limitation in each domain. The critical element in evaluating the severity of a child's limitations is how appropriately, effectively, and independently the child performs age-appropriate activities.

Also, a child who is having significant but unexplained problems may have an impairment(s) that has not yet been diagnosed, or may have a diagnosed impairment(s) for which we lack evidence. For example, children who are many grades behind in school often have a medically determinable impairment(s). In many cases, the school will have evaluated the child, and the school records will provide information about whether there is a medically determinable impairment(s).¹¹ It may be necessary to further develop information from the child's medical source(s) or purchase a consultative examination (CE). Adjudicators should pursue indications that an impairment(s) may be present if that fact may be material to the determination or decision.

III. Sources of Evidence About a Child's Impairment-Related Limitations

Once we have evidence from an acceptable medical source¹² that

¹¹ This will be especially true in cases in which the child is behind in school because of mental retardation, borderline intellectual functioning, or a learning disability, which can be established by evidence from a school psychologist, or because of a language disorder, which can be established by a qualified speech-language pathologist. See 20 CFR 416.913(a). However, school records may include evidence from other kinds of acceptable medical sources establishing the existence of a medically determinable impairment.

¹² The term "acceptable medical source" is defined in 20 CFR 416.902 as "one of the sources

establishes the existence of at least one medically determinable impairment, we consider all relevant evidence in the case record to determine whether a child is disabled. This evidence may come from acceptable medical sources and from a wide variety of "other sources."¹³

Medical Sources: Acceptable medical sources can provide information about how an impairment(s) affects a child's everyday activities. For example, a pediatrician might discuss the impact of asthma on a child's participation in physical activities, or a speech-language pathologist might discuss how a language disorder contributes to limited attention and problems in school.

We cannot use evidence from other medical sources who are not "acceptable medical sources" to establish that a child has a medically determinable impairment. However, we can use evidence from these sources, such as nurse-practitioners, physicians' assistants, naturopaths, chiropractors, audiologists, occupational therapists (OTs), physical therapists (PTs), and psychiatric social workers (PSWs), to determine the severity of the impairment(s) and how it affects the child's ability to function compared to children of the same age who do not have impairments. For example:

- A PSW might comment on the child's ability to handle stressful situations.
- An OT or PT may evaluate the impact of a musculoskeletal disorder on the child's activities and comment on muscle tone and strength and how it affects the child's ability to walk with a brace.
- An OT might comment on the child's ability to use motor skills to get dressed without assistance.

Non-Medical Sources: Evidence from other sources who are not medical sources and who know and have contact with the child can also be very important to our understanding of the severity of a child's impairment(s) and how it affects day-to-day functioning. These sources include parents and

described in 416.913(a) who provides evidence about your impairments."

¹³ We explain what the term "other sources" means in 20 CFR 416.913(d). For more information about how we consider opinion evidence from "other sources," including opinions about functional limitations, see SSR 06-03p, Titles II and XVI: Considering Opinions and Other Evidence from Sources Who Are Not "Acceptable Medical Sources" in Disability Claims; Considering Decisions on Disability by Other Governmental and Nongovernmental Agencies, 71 FR 45593 (2006), available at: http://www.socialsecurity.gov/OP_Home/rulings/di/01/SSR2006-03-di-01.html. For information about how we consider opinion evidence from acceptable medical sources, see generally 20 CFR 416.927.

caregivers, educational personnel (for example, teachers, early intervention team members, counselors, developmental center workers, and daycare center workers), public and private social welfare agency personnel, and others (for example, siblings, friends, neighbors, and clergy).

Therefore, we will consider evidence from such non-medical sources when we determine the severity of the child's impairment(s) and how the child typically functions compared to children of the same age who do not have impairments.

IV. Early Intervention and School Programs¹⁴

In most cases, early intervention (EI) and school programs are significant sources of evidence about a child's impairment-related limitations. Children from birth to the attainment of age 3 may receive EI services if they are experiencing delays in one or more developmental areas or if they have a diagnosed physical or mental condition that is likely to result in such delays.¹⁵ Children from ages 3 through 5 may attend preschool or other daycare programs. Children age 6 and older usually attend school and may receive special education and related services¹⁶ if they require specially designed instruction because of their unique needs related to a physical or mental impairment(s).

We require adjudicators to try to get EI and school records whenever they are needed to make a determination or decision regarding a child's disability. We do not require information from EI or school personnel in every case because sometimes we can decide that a child is disabled without it, such as when the child's impairment(s) meets the requirements of a listing. We may also have to make a determination or decision without EI or school evidence when we are unable to obtain it.

¹⁴ School programs also include preschool programs, such as Early Head Start (for children birth to age 3) and Head Start (ages 3 through 5).

¹⁵ EI services may include occupational therapy, physical therapy, speech therapy, psychological services, audiology, health services, nutrition services, nursing services, and assistive technology devices. The developmental areas are: Cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development.

¹⁶ "Related services" includes transportation and such developmental, corrective, and other supportive services (such as physical and occupational therapy) as are required to assist a child with a disability to benefit from special education. A child who does not qualify for special education may qualify for related services under section 504 of the Rehabilitation Act of 1973 to ensure a free, appropriate public education. See section IV.C., below.

A. Comprehensive Evaluations in EI or School Programs

We will consider the results of comprehensive evaluations we receive. Children receive comprehensive evaluations when they are candidates for EI or special education and related services and periodically after that when they receive these services. These evaluations are usually conducted by a team of qualified personnel¹⁷ who can assess a child in all areas of suspected delay or educational need.

As part of a comprehensive evaluation, the EI or school program will use a variety of assessment procedures and tools to identify a child's unique strengths and needs, as well as all of the services appropriate to address those needs. For younger children, the primary focus of the evaluation is their level of functioning in terms of developmental milestones. For school-age children, the primary focus is their level of academic skills and related developmental needs.

The evaluation generally includes:

- Observations of the child in a learning environment or a natural setting, such as in the home;
- Alternative and informal assessments, such as play-based assessment and review of completed classroom assignments;
- Interviews with parents, teachers, or other appropriate people, including child behavior checklists; and
- Standardized tests, such as a formal development test for a toddler or a formal intelligence or language test for an older child.

When we request information from EI programs or schools, we will ask for the most recent comprehensive evaluation and test results, as well as other evidence that supports the analysis of the child's development or academic skills and related developmental needs. Some children may have received a comprehensive evaluation, but may not be receiving EI or special education services. Therefore, we will request this information even if a child is not receiving services.

B. Individualized Family Service Plans and Individualized Education Programs

The agency providing EI services or special education and related services will develop a written plan documenting the child's eligibility for services, the therapeutic or educational

goals, the services the agency will provide, and the setting(s) where the agency will provide these services. Infants and toddlers should have an Individualized Family Service Plan (IFSP). Preschool and school-age children should have an Individualized Education Program (IEP), including an IEP transition plan for children beginning at age 14.

Both IFSPs and IEPs are important sources of specific information about a child's abilities and impairment-related limitations, and provide valuable information about the various kinds and levels of support a child receives. For example, an IEP will describe:

- Supplementary aids and services, such as speech-language pathology services, counseling, transportation, and orientation and mobility services;
- Modifications to the academic program made to accommodate the child's impairment(s), such as reading instruction in a resource room;
- The role of a classroom aide assigned to the child, such as assistance in moving from one classroom to the next; and
- The characteristics of the child's self-contained classroom, such as teacher-student ratio.

This information about supports children receive can be critical to determining the extent to which their impairments compromise their ability to independently initiate, sustain, and complete activities. In general, if a child needs a person, a structured or supportive setting, medication, treatment, or a device to improve or enable functioning, the child will not be as independent as same-aged peers who do not have impairments. We will generally find that such a child has a limitation, even if the child is functioning well with the help or support. The more help or support of any kind that a child receives beyond what would be expected for children the same age without impairments, the less independently the child functions, and the more severe we will find the limitation to be.¹⁸

1. *Present Level of Development or Educational Performance.* The first part of an IFSP or IEP describes and analyzes the child's present level of development (for example, physical or cognitive development) or academic skills based on the comprehensive evaluation or subsequent assessments and other information that is available at the time the IFSP or IEP is developed.¹⁹

2. *Goals and Objectives.* The second part of an IFSP or IEP consists of one or more sets of goals and specific objectives for the infant or toddler's development or the preschool or school-age child's education. The IFSP or IEP includes goals for improvement within 3–6 months (for infants and toddlers) or 1 year for preschool and school-age children. We can infer how the child is currently functioning from these goals. For example, if an IEP goal is "will be able to read at a 4th grade level," we can reasonably conclude that the child was not performing at that level when the IEP was written.

Based on broad developmental or educational goals, the written plan will outline specific objectives organized around the discrete physical or mental skills that must be mastered in order to achieve the goal. The plan also includes the kinds of activities and tasks the teacher or therapist will undertake with the child to develop the targeted skills. For example:

- An IFSP goal for a toddler from an occupational therapist might be: "The child will use fine/gross motor skills to handle age-appropriate materials during play," while a specific objective (one of many) would identify the skills to be developed (for example, articulation of the thumb and all fingers for grasping) and the particular manipulative tasks to be used to develop the needed skills (for example, molding modeling clay into balls).
- An IEP goal for an 11-year-old from a special educator might be: "The child will independently read simple stories at the 4th grade level," while a specific objective (one of many) would identify the skills to be developed (for example, use of phonetic cues to identify initial, medial, and ending sounds in new words), and the particular instruction methods to be used to develop the needed skills (for example, small group instruction with practice sounding out unfamiliar words).

Children who reach age 14 begin the transition from high school to the adult workplace. The IEP transition plan describes a student's levels of functioning based on reasonable estimates by both the student and the special education team and identifies the kinds of vocational and living skills the child needs to develop in order to move into adulthood. The IEP transition goals may range from the development of skills appropriate to supervised and supported work and living settings to those needed in independent work and living situations.

therefore, may indicate that there is other relevant evidence available.

¹⁷ The evaluation team may include personnel who are "acceptable medical sources" under our rules. When the team includes such people, the comprehensive evaluation may provide the primary evidence we need to both establish and evaluate the child's impairment and resulting limitations.

¹⁸ See generally 20 CFR 416.924a(b). See also SSR 09–1p.

¹⁹ IFSPs and IEPs frequently reference underlying psychological or developmental testing, and

Both the IFSP and IEP can provide useful information about a child's functioning. However, the underlying purpose of these documents is not to determine disability under our rules. Rather, the IFSP or IEP is used to design the individualized services and supports a child needs to maximize growth and development or to participate in and progress in the general education curriculum. In contrast, we use the information in the IFSP or IEP to help determine if the child has marked and severe functional limitations.

It is important to remember, therefore, that the goals in an IFSP or IEP are frequently set at a level that the child can readily achieve to foster a sense of accomplishment. Those goals are frequently lower than what would be expected of a child the same age without impairments. In this regard:

- A child who achieves a goal may still have limitations. The child may have achieved the goal simply because it was set low, and may be developing or acquiring skills at a slower rate than children the same age without impairments.

- On the other hand, the fact that the child does not achieve a goal is likely an indication of the severity of the child's impairment-related limitations. However, the child's failure to achieve a goal does not, by itself, establish that the impairment(s) functionally equals the listings.

Therefore, we must consider the purpose of the goals provided in an IFSP or IEP. And, as with any single piece of evidence, we will consider facts, such as whether a child achieves goals in an IFSP or IEP, along with other relevant information in the case record.

3. *Services, Settings, and Supports.* The third part of the IFSP or IEP documents what services the child needs, the settings in which the services will be provided, and any supports the child needs. The services needed may include special education placement, early intervention services, related services (such as occupational therapy, counseling, and transportation services), and supplementary services (such as peer tutoring and a one-on-one aide). The settings for services may include any setting that is typical for the child's same-aged peers and classroom placement (described in a. below). The supports a child needs may include adaptive equipment (such as a special seat), assistive technology (such as a communication board), and accommodations (described in b. below).

The IFSP may have an additional section for "other services," which

outlines services that the child may be receiving from other sources. An EI program should coordinate the services a child needs with other State and Federal programs. If the IFSP identifies such services, we will request the information from the other programs unless we determine that the additional information would not affect the outcome of the case given the other evidence already in the record.

a. Classroom Placements

When a child receives special education services under an IEP, the IEP will include information about the setting where the child will receive the services. There is a continuum of alternative placements including, but not limited to:

- Regular classrooms,
- Regular classrooms with "pull-out" services, such as a resource room,
- Special education classrooms,
- Alternative schools,
- Day treatment programs, and
- Residential schools.

The decision to provide services in a particular setting may be based on factors other than the severity of the child's limitations. Therefore, details about the child's performance in school and other settings (for example, how well the child is performing) are important components of our analysis. As we explain in more detail in SSR 09-1p, we will consider the kinds and levels of the support the child receives.

b. Accommodations

Some students with impairments need accommodations in their educational program in order to participate in the general curriculum. In this context, accommodations are practices and procedures that allow a child to complete the same assignment or test as other students, but with a change in:

- *Presentation*, or how instruction or directions are delivered (for example, read orally to the child by an adult, or provided in large print, on audiotape, or via a screen reader).
- *Response*, or how the student solves problems or completes assignments (for example, using an augmentative communication device or dictating answers to a scribe).
- *Setting*, or how the environment is set up (for example, seating the child near the teacher or seating the child away from distractions).
- *Timing/Scheduling*, or the time period during which the lesson or assignment is scheduled (for example, allowing extra time to complete an assignment or scheduling tests around a child's medication regimen).

C. Section 504 Plans

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs and activities that receive Federal financial assistance.²⁰ Schools must provide a free, appropriate public education to each student with a disability.²¹ Children must receive educational and related aids and services that are designed to meet their educational needs, even if they are not provided any special education services under the Individuals with Disabilities Education Act (IDEA).²² Schools will conduct an evaluation of specific areas of educational need for children who have disabilities that limit their access to the educational setting. If a child is qualified under section 504, the school will have a written plan for the aids, services, and accommodations that will be provided. We will consider any section 504 plans when we request information from a child's school.

V. *Standard of Comparison*

Because we compare a child's functioning to the functioning of other children the same age who do not have impairments, we should understand the standard of comparison used by sources of the information. For example, a special education teacher may say a child is "doing well." Without knowing the standard of comparison, this could mean:

- Compared to that teacher's expectations for the child,
- Compared to other children in the special education class, or
- Compared to children the same age who do not have impairments.

Therefore, the adjudicator will consider both the standards used by the teacher or other source to rate the quality of the child's functioning and the characteristics of the group to whom the child is being compared. 20 CFR 416.924a(b)(3)(ii).

VI. *Resolving Inconsistencies in the Evidence*

Adjudicators should analyze and evaluate relevant evidence for consistency, and resolve any

²⁰ Public Law 93-112, section 504; 29 U.S.C. 794(a), as amended.

²¹ See 34 CFR 104.33(a). "Appropriate" in this context means the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of the Department of Education's regulations. 34 CFR 104.33(b).

²² 20 U.S.C. 1400, *et seq.*

inconsistencies that need to be resolved.²³

After reviewing all of the relevant evidence, we determine whether there is sufficient evidence to make a finding about disability. "All of the relevant evidence" means:

- The relevant objective medical evidence and other relevant evidence from medical sources;
- Relevant information from other sources, such as school teachers, family members, or friends;
- The claimant's statements (including statements from the child's parent(s) or other caregivers); and
- Any other relevant evidence in the case record, including how the child functions over time and across settings.

If there is sufficient evidence and there are no inconsistencies in the case record, we will make a determination or decision. However, the fact that there is an inconsistency in the evidence does not automatically mean that we need to request additional evidence, or that we cannot make a determination or decision. Often, we will be able to resolve the issue with the evidence in the case record because most of the evidence or the most probative evidence outweighs the inconsistent evidence and additional information would not change the determination or decision.

Sometimes an inconsistency may not be "material"; that is, it may not have any effect on the outcome of the case or on any of the major findings. Obviously, an inconsistency would be immaterial if the decision would be fully favorable regardless of the resolution. For example, if one piece of evidence shows the child's birth weight as 950 grams and another shows it as 1025 grams, the inconsistency is not material because we would find that the child's impairment(s) functionally equals the listings under 20 CFR 416.926a(m)(6) based on either birth weight. Similarly, an inconsistency could also be immaterial in an unfavorable determination or decision when resolution of the inconsistency would not affect the outcome. This could occur, for example, if there is inconsistent evidence about a limitation in an activity, but no evidence supporting a rating of "marked" limitation of a relevant domain.

At other times, an apparent inconsistency may not be a true inconsistency. For example, the record

²³ This basic policy is also contained in other rules on evidence, including 20 CFR 416.912, 416.913, 416.924a(a), 416.927, and 416.929. For our rules on how we consider test results, see also section 112.00D of the listings for IQ and other tests related to mental disorders, and 20 CFR 416.924a(a)(1)(ii) and 416.926a(b)(4) for all testing.

for a child with attention-deficit/hyperactivity disorder (AD/HD) may include good, longitudinal evidence of hyperactivity at home and in the classroom, but show a lack of hyperactivity during a CE. While this may appear to be an inconsistency, it is a well-known clinical phenomenon that children with some impairments (for example, AD/HD) may be calmer, less inattentive, or less out-of-control in a novel or one-to-one setting, such as a CE. See 20 CFR 416.924a(b)(6).²⁴

In some cases, the longitudinal history may reveal sudden, negative changes in the child's functioning; for example, a child who previously did well in school suddenly begins to fail. In these situations, we should try to ascertain the reason for these changes whenever they are material to the decision.

In all other cases in which the evidence is insufficient, including when a material inconsistency exists that we cannot resolve based on an evaluation of all of the relevant evidence in the case record, we will try to complete the record by requesting additional or clarifying information.²⁵

Effective Date: This SSR is effective on March 20, 2009.

Cross-References: SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The "Whole Child" Approach; SSR 09–3p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Acquiring and Using Information"; SSR 09–4p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Attending and Completing

²⁴ This example highlights the importance of getting a full picture of the "whole child" and of our longstanding policy that we must consider each piece of evidence in the context of the remainder of the case record. Accepting the observation of the child's behavior or performance in an unusual setting, like a CE, without considering the rest of the evidence could lead to an erroneous conclusion about the child's overall functioning.

²⁵ With respect to testing, we provide in 20 CFR 416.926a(b)(4)(iii) that we will try to resolve material inconsistencies between test scores and other information in the case record. We explain that, while it is our responsibility to resolve any material inconsistencies, the interpretation of a test is "primarily the responsibility of the psychologist or other professional who administered the test." If necessary, we may recontact the professional who administered the test for further clarification. However, we may also resolve an inconsistency with other information in the case record, by questioning other people who can provide us with information about a child's day-to-day functioning, or by purchasing a consultative examination. This regulation also provides that when we do not believe that a test score accurately indicates a child's abilities, we will document our reasons for not accepting the score in the case record, or in the decision at the administrative law judge hearing and Appeals Council levels (when the Appeals Council makes a decision).

Tasks"; SSR 09–5p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Interacting and Relating with Others"; SSR 09–6p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Moving About and Manipulating Objects"; SSR 09–7p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Caring For Yourself"; SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Health and Physical Well-Being"; SSR 06–03p, Titles II and XVI: Considering Opinions and Other Evidence from Sources Who Are Not "Acceptable Medical Sources" in Disability Claims; Considering Decisions on Disability by Other Governmental and Nongovernmental Agencies; and Program Operations Manual System (POMS) DI 24515.055, DI 25225.030, DI 25225.035, DI 25225.040, DI 25225.045, DI 25225.050, and DI 25225.055.

[FR Doc. E9–3378 Filed 2–17–09; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2008–0062, Social Security Ruling, SSR 09–4p.]

Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Attending and Completing Tasks"

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are giving notice of SSR 09–4p. This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of "Attending and completing tasks." It also explains our policy about that domain.

DATES: *Effective Date:* March 20, 2009.

FOR FURTHER INFORMATION CONTACT: Janet Truhe, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020.

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

SSRs make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, special veterans benefits, and black lung benefits programs. SSRs may be based

on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will be in effect until we publish a notice in the **Federal Register** that rescinds it, or publish a new SSR that replaces or modifies it.

(Catalog of Federal Domestic Assistance, Program No. 96.006 Supplemental Security Income.)

Dated: February 9, 2009.

Michael J. Astrue,

Commissioner of Social Security.

Policy Interpretation Ruling Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of “Attending and Completing Tasks”

Purpose: This SSR consolidates information from our regulations, training materials, and question-and-answer documents about the functional equivalence domain of “Attending and completing tasks.” It also explains our policy about that domain.

Citations: Sections 1614(a)(3), 1614(a)(4), and 1614(c) of the Social Security Act, as amended; Regulations No. 4, subpart P, appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.906, 416.909, 416.923, 416.924, 416.924a, 416.924b, 416.925, 416.926, 416.926a, and 416.994a.

Introduction: A child¹ who applies for Supplemental Security Income (SSI)² is “disabled” if the child is not engaged in substantial gainful activity and has a medically determinable physical or mental impairment or combination of impairments³ that results in “marked and severe functional limitations.”⁴ 20 CFR

416.906. This means that the impairment(s) must *meet* or *medically equal* a listing in the Listing of Impairments (the listings)⁵ or *functionally equal* the listings (also referred to as “functional equivalence”). 20 CFR 416.924 and 416.926a.

As we explain in greater detail in SSR 09–1p, we always evaluate the “whole child” when we make a finding regarding functional equivalence, unless we can otherwise make a fully favorable determination or decision.⁶ We focus first on the child's activities, and evaluate how appropriately, effectively, and independently the child functions compared to children of the same age who do not have impairments. 20 CFR 416.926a(b) and (c). We consider what activities the child cannot do, has difficulty doing, needs help doing, or is restricted from doing because of the impairment(s). 20 CFR 416.926a(a). *Activities* are everything a child does at home, at school, and in the community, 24 hours a day, 7 days a week.⁷ We next evaluate the effects of a child's impairment(s) by rating the degree to which the impairment(s) limits functioning in six “domains.” *Domains* are broad areas of functioning intended to capture all of what a child can or cannot do. We use the following six domains:

- (1) Acquiring and using information,
 - (2) Attending and completing tasks,
 - (3) Interacting and relating with others,
 - (4) Moving about and manipulating objects,
 - (5) Caring for yourself, and
 - (6) Health and physical well-being.
- 20 CFR 416.926a(b)(1).⁸

⁵ For each major body system, the listings describe impairments we consider severe enough to cause “marked and severe functional limitations.” 20 CFR 416.925(a); 20 CFR part 404, subpart P, appendix 1.

⁶ See SSR 09–1p, Title XVI: Determining Childhood Disability Under the Functional Equivalence Rule—The “Whole Child” Approach.

⁷ However, some children have chronic physical or mental impairments that are characterized by episodes of exacerbation (worsening) and remission (improvement); therefore, their level of functioning may vary considerably over time. To properly evaluate the *severity* of a child's limitations in functioning, as described in the following paragraphs, we must consider any variations in the child's level of functioning to determine the impact of the chronic illness on the child's ability to function longitudinally; that is, over time. For more information about how we evaluate the severity of a child's limitations, see SSR 09–1p. For a comprehensive discussion of how we document a child's functioning, including evidentiary sources, see SSR 09–2p, Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations.

⁸ For the first five domains, we describe typical development and functioning using five age categories: Newborns and young infants (birth to attainment of age 1); older infants and toddlers (age

To functionally equal the listings, an impairment(s) must be of listing-level severity; that is, it must result in “marked” limitations in two domains of functioning or an “extreme” limitation in one domain.⁹ 20 CFR 416.926a(a).

Policy Interpretation

General

In the domain of “Attending and completing tasks,” we consider a child's ability to focus and maintain attention, and to begin, carry through, and finish activities or tasks. We consider the child's ability to initiate and maintain attention, including the child's alertness and ability to focus on an activity or task despite distractions, and to perform tasks at an appropriate pace. We also consider the child's ability to change focus after completing a task and to avoid impulsive thinking and acting. Finally, we evaluate a child's ability to organize, plan ahead, prioritize competing tasks, and manage time.¹⁰

The ability to attend and to complete tasks develops throughout childhood, evolving from an infant's earliest response to stimuli, such as light, sound, and movement, to an adolescent's completion of academic requirements. Over time, this evolution can be seen in the steady development of a child's ability to attend and to complete increasingly complex tasks. For example:

- Newborns or young infants gaze at human faces or moving objects, and listen in the direction of a human voice.
- Toddlers engage in activities that interest them, such as listening to a story.

¹ to attainment of age 3); preschool children (age 3 to attainment of age 6); school-age children (age 6 to attainment of age 12); and adolescents (age 12 to attainment of age 18). We do not use age categories in the sixth domain because that domain does not address typical development and functioning, as we explain in SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of “Health and Physical Well-Being.”

⁹ See 20 CFR 416.926a(e) for definitions of the terms “marked” and “extreme.”

¹⁰ In 20 CFR 416.924a(b)(5), we provide that how independently a child can “initiate, sustain, and complete” activities is a “factor” we consider when evaluating a child's functioning. The difference between this “factor” and the domain of “Attending and completing tasks” is that the factor addresses the issue of independence in functioning at every step in the sequential evaluation process and in all domains—the extent to which a child can begin, carry out, and finish age-appropriate activities at an appropriate rate and without needing extra help. The child may receive help in a number of ways: Personal service from another person; special equipment, devices, or medications; adaptations (such as special appliances); and structured or supportive settings, including the amount of help the child needs to remain in a regular setting. The domain of “Attending and completing tasks” assesses a child's specific ability to focus and maintain attention.

¹ The definition of disability in section 1614(a)(3)(C) of the Social Security Act (the Act) applies to any “individual” who has not attained age 18. In this SSR, we use the word “child” to refer to any such person, regardless of whether the person is considered a “child” for purposes of the SSI program under section 1614(c) of the Act.

² For simplicity, we refer in this SSR only to initial claims for benefits. However, the policy interpretations in this SSR also apply to continuing disability reviews of children under section 1614(a)(4) of the Act and 20 CFR 416.994a.

³ We use the term “impairment(s)” in this SSR to refer to an “impairment or a combination of impairments.”

⁴ The impairment(s) must also satisfy the duration requirement in section 1614(a)(3)(A) of the Act; that is, it must be expected to result in death, or must have lasted or be expected to last for a continuous period of not less than 12 months.

- Preschool children engage in uninterrupted periods of play, such as putting a puzzle together.
- School-age children focus long enough to do classwork and homework.
- Adolescents may perform part-time work requiring sustained attention to assigned duties that must be completed on time.

As in any domain, when we evaluate a child's limitations in the domain of "Attending and completing tasks," we consider how appropriately, effectively, and independently the child functions compared to children of the same age who do not have impairments. For example, a teacher may report that a child "pays attention well with frequent prompting." The need for frequent prompting demonstrates that the child is not paying attention as appropriately, effectively, or independently as children of the same age who do not have impairments. Despite the fact that the child is paying attention with prompting, this child is not functioning well in this domain.

The domain of "Attending and completing tasks" covers only the mental aspects of task completion; such as the mental pace that a child can maintain to complete a task.¹¹ Therefore, limitations in the domain of "Attending and completing tasks" are most often seen in children with mental disorders. For example, in school:

- Children with attention-deficit/hyperactivity disorder (AD/HD) whose primary difficulty is *inattention* may be easily distracted or have difficulty focusing on what is important and staying on task. They may fail to pay close attention to details and make careless mistakes in schoolwork, avoid projects that require sustained attention, or lose things needed for school or other activities beyond what is expected of children their age who do not have impairments.

- Children with AD/HD whose primary difficulty is *hyperactivity* and

impulsivity may fidget with objects instead of paying attention, talk instead of listening to instructions, or get up from their desks and wander around the classroom beyond what is expected of children their age who do not have impairments.¹²

Although we more often see limitations in this domain in connection with mental disorders, a physical impairment(s) can also affect a child's mental ability to attend and to complete tasks. For example, pain caused by a musculoskeletal disorder can distract a child and interfere with the child's ability to concentrate and to complete assignments on time. Medications that affect concentration or interfere with other mental processes, such as some medications for seizure disorders, may also affect a child's ability to attend and to complete tasks.

Some children with impairments can attend to some tasks, but not to all tasks in all settings. Such children may exhibit "hyperfocus," an intense focus on things that interest them, such as video games, but be limited in their ability to focus on other tasks. These kinds of limitations in the domain of "Attending and completing tasks" are common in children with AD/HD and autistic spectrum disorders (ASD). For example, some children with ASD may be distracted by, or become fixated on, everyday sounds (such as the hum of an air conditioner) that children without impairments can easily ignore. Children with autism may become fixated on parts of an object (such as the wheels on a toy truck) rather than on the more obvious and primary use of the object. Children with Asperger's disorder (one type of ASD), may hyperfocus on a single area of interest and have difficulty discussing or paying attention to any other subject. These children may appear to function well, or even better than other children, in the area of hyperfocus, but may be very limited in some other tasks and settings.

As with limitations in any domain, we do not consider a limitation in the domain of "Attending and completing tasks" unless it results from a medically determinable impairment(s). However, while it is common for all children to experience some difficulty attending and completing tasks from time to time, a child who has significant but unexplained problems in this domain

may have an impairment(s) that was not alleged or has not yet been diagnosed. In such cases, adjudicators should pursue any indications that an impairment(s) may be present.

Effects in Other Domains

In the domain of "Attending and completing tasks," we consider the mental aspects of a child's ability to focus, maintain attention, and complete age-appropriate tasks throughout the day. In addition, because the ability to attend and to complete tasks is involved in nearly everything a child does, an impairment(s) that affects this ability may cause limitations in other domains.

For example, school-age children with AD/HD may have limitations in multiple domains. The effects of inattention and hyperactivity can impede the learning process and affect competence in many areas of life. These effects can result in limitations in the domain of "Acquiring and using information"; for example, by undermining academic performance. They may also have effects in the domain of "Interacting and relating with others"; for example, children with AD/HD may interrupt others in conversation or have difficulty taking turns during play activities. They may also cause limitations in the domain of "Caring for yourself"; for example, when a child risks personal safety by not stopping and thinking before doing something.

Therefore, as in any case, we evaluate the effects of a child's impairment(s), including the effects of medication or other treatment and therapies, in all relevant domains. Rating the limitations caused by a child's impairment(s) in each and every domain that is affected is *not* "double-weighting" of either the impairment(s) or its effects. Rather, it recognizes the particular effects of the child's impairment(s) in all domains involved in the child's limited activities.¹³

Examples of Typical Functioning in the Domain of "Attending and Completing Tasks"

While there is a wide range of normal development, most children follow a typical course as they grow and mature. To assist adjudicators in evaluating a child's impairment-related limitations in the domain of "Attending and completing tasks," we provide the following examples of typical functioning drawn from our regulations, training, and case reviews. These examples are not all-inclusive, and

¹¹ We evaluate a child's *physical* ability to complete tasks in the domain of "Moving about and manipulating objects," or when appropriate, "Health and physical well-being." For example, a child who has difficulty getting dressed at an age-appropriate pace because of rheumatoid arthritis has a limitation that we evaluate in the domain of "Moving about and manipulating objects" or "Health and physical well-being" depending on the specific physical reason for the limitation; for example, joint deformity (Moving about and manipulating objects) or constitutional symptoms and signs (Health and physical well-being). A physical impairment may have effects that we evaluate in both the domains of "Moving about and manipulating objects" and "Health and physical well-being"; such as when a child has both a musculoskeletal deformity and constitutional symptoms and signs because of systemic sclerosis. In addition to the SSRs for the other domains cited at the end of this SSR, see generally SSR 09-1p.

¹² We provide a number of examples involving AD/HD and autism spectrum disorders in this SSR because these impairments frequently occur in childhood SSI cases. However, many other kinds of mental disorders can cause limitations in the ability to attend and to complete tasks. For example, mood disorders, such as depression, often cause difficulties in concentration.

¹³ For more information about how we rate limitations, including their interactive and cumulative effects, see SSR 09-1p.

adjudicators are not required to develop evidence about each of them. They are simply a frame of reference for determining whether children are functioning typically for their age with respect to attending and completing tasks.

1. Newborns and Young Infants (Birth to Attainment of Age 1)

- Shows sensitivity to environment by responding to various stimuli (for example, light, touch, temperature, movement).
- Stops activity when voices or other sounds are heard.
- Begins to notice and gaze at various moving objects, including people and toys.
- Listens to family conversations and plays with people and toys for progressively longer periods of time.
- Wants to change activities frequently, but gradually expands interest in continuing an interaction or a game.

2. Older Infants and Toddlers (Age 1 to Attainment of Age 3)

- Attends to things of interest (for example, looking at picture books, listening to stories).
- Has adequate attention to complete some tasks independently (for example, putting a toy away).
- Demonstrates sustained attention (for example, building with blocks, helping to put on clothes).

3. Preschool Children (Age 3 to Attainment of Age 6)

- Pays attention when spoken to directly.
- Sustains attention to play and learning activities.
- Concentrates on activities like putting puzzles together or completing art projects.
- Focuses long enough to complete many activities independently (for example, getting dressed, eating).
- Takes turns and changes activities when told by a caregiver or teacher that it is time to do something else.
- Plays contentedly and independently without constant supervision.

4. School-age Children (Age 6 to Attainment of Age 12)

- Focuses attention in a variety of situations in order to follow directions, completes school assignments, and remembers and organizes school-related materials.
- Concentrates on details and avoids making careless mistakes.
- Changes activities or routines without distracting self or others.

- Sustains attention well enough to participate in group sports, read alone, and complete family chores.

- Completes a transition task without extra reminders or supervision (for example, changing clothes after gym or going to another classroom at the end of a lesson).

5. Adolescents (Age 12 to Attainment of Age 18)

- Pays attention to increasingly longer presentations and discussions.
- Maintains concentration while reading textbooks.
- Plans and completes long-range academic projects independently.
- Organizes materials and manages time in order to complete school assignments.
- Maintains attention on tasks for extended periods of time, and is not unduly distracted by or distracting to peers in a school or work setting.

Examples of Limitations in the Domain of "Attending and Completing Tasks"

To further assist adjudicators in evaluating a child's impairment-related limitations in the domain of "Attending and completing tasks," we also provide the following examples of some of the limitations we consider in this domain. These examples are drawn from our regulations and training. They are not the only examples of limitations in this domain, nor do they necessarily describe a "marked" or an "extreme" limitation.

In addition, the examples below may or may not describe limitations depending on the expected level of functioning for a given child's age. For example, a toddler would not be expected to be able to play a game or stay on another task for an hour, but a teenager would.¹⁴

- Is easily startled, distracted, or overreactive to everyday sounds.
- Is slow to focus on or fails to complete activities that interest the child.
- Gives up easily on tasks that are within the child's capabilities.
- Repeatedly becomes sidetracked from activities or frequently interrupts others.
- Needs extra supervision to stay on task.
- Cannot plan, manage time, or organize self in order to complete assignments or chores.

Effective date: This SSR is effective upon publication in the **Federal Register**.

Cross-References: SSR 09–1p, Title XVI: Determining Childhood Disability

under the Functional Equivalence Rule—The "Whole Child" Approach; SSR 09–2p, Title XVI: Determining Childhood Disability—Documenting a Child's Impairment-Related Limitations; SSR 09–3p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Acquiring and Using information"; SSR 09–5p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Interacting and Relating with Others"; SSR 09–6p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Moving About and Manipulating Objects"; SSR 09–7p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Caring for Yourself"; SSR 09–8p, Title XVI: Determining Childhood Disability—The Functional Equivalence Domain of "Health and Physical Well-Being"; SSR 98–1p, Determining Medical Equivalence in Title XVI Childhood Disability Claims When a Child Has Marked Limitations in Cognition and Speech; and Program Operations Manual System (POMS) DI 25225.030, DI 25225.035, DI 25225.040, DI 25225.045, DI 25225.050, and DI 25225.055.

[FR Doc. E9–3380 Filed 2–17–09; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Supplemental Notice of Meeting of the National Parks Overflights Advisory Group Aviation Rulemaking Committee

ACTION: Revised notice of meeting and additional information.

SUMMARY: The Federal Aviation Administration (FAA) and the National Park Service (NPS), in accordance with the National Parks Air Tour Management Act of 2000, announce the next meeting of the National Parks Overflights Advisory Group (NPOAG) Aviation Rulemaking Committee (ARC). This notification provides the date, format, and agenda for the meeting and provides additional information to the **Federal Register** notice published on February 3, 2009 (Vol. 74, No. 21, Page 5969) by providing the call in number for the public to access the telcon.

Dates and Location: The NPOAG ARC will hold a meeting on February 25th, 2009. The meeting will be conducted as a telephone conference call. The meeting will be held from 9 a.m. to 12 p.m. Pacific Standard Time on February 25th. This NPOAG meeting will be open

¹⁴ See 20 CFR 416.924b.

to the public. Interested persons may listen in on the conference call (see Public Participation at the Meeting)

FOR FURTHER INFORMATION CONTACT: Barry Brayer, AWP-1SP, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, P.O. Box 92007, Los Angeles, CA 90009-2007, telephone: (310) 725-3800, e-mail:

Barry.Brayer@faa.gov, or Vicki McCusker, National Park Service, Natural Sounds Program, 1201 Oakridge Dr., Suite 100, Fort Collins, CO 80525, telephone: (970) 267-2117, e-mail: *Vicki_McCusker@nps.gov*.

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (NPATMA), enacted on April 5, 2000, as Public Law 106-181, required the establishment of the NPOAG within one year after its enactment. The Act requires that the NPOAG be a balanced group of representatives of general aviation, commercial air tour operations, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

The duties of the NPOAG include providing advice, information, and recommendations to the FAA Administrator and the NPS Director on: implementation of Public Law 106-181; quiet aircraft technology; other measures that might accommodate interests to visitors of national parks; and at the request of the Administrator and the Director, on safety, environmental, and other issues related to commercial air tour operations over national parks or tribal lands.

Agenda for the February 25, 2009, NPOAG Meeting

The agenda for the meeting will include, but is not limited to, the following: review of a Strategic Plan for the NPOAG, review and approval of the meeting minutes from the December 1, 2008 NPOAG telephone conference call meeting; discussion on the strawman for a competitive bidding process, and an update on ongoing Air Tour Management Plan (ATMP) program projects.

Public Participation for the Meeting

This NPOAG meeting will be conducted as a telephone conference call and will be open to the public.

Interested persons may listen in on the proceedings in a "listen mode." The conference call will take place from 9 a.m.-12 noon PST/12 noon-3 p.m. EST on February 25, 2009. The public can access the conference call by dialing 310-725-3333 and entering the passcode number 0225 when prompted, followed by the "#" sign.

Record of the Meeting

If you are unable to participate in this NPOAG meeting conference call, a summary record of the meeting will be made available under the NPOAG section of the FAA's ATMP Web site at <http://www.atmp.faa.gov> or through the Special Programs Staff, Western-Pacific Region, Federal Aviation Administration, P.O. Box 92007, Los Angeles, CA 90009-2007, telephone (310) 725-3800. The FAA's ATMP Web site, however, may be down temporarily due to maintenance.

Issued in Hawthorne, CA on February 9, 2009.

Barry S. Brayer,

Manager, Special Programs Office, Western-Pacific Region.

[FR Doc. E9-3209 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2009-XXXX]

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 WINDSONG.

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-XXXX 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 March 20, 2009.

ADDRESSES: Comments should refer to docket number MARAD-2009-XXXX. 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 WINDSONG is:

Intended Use: "Sailing instruction and pleasure charter."

Geographic Region: "MA, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL"

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: February 10, 2009.

By order of the Maritime Administrator.
Leonard Sutter,
 Secretary, Maritime Administration.
 [FR Doc. E9-3459 Filed 2-17-09; 8:45 am]
 BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2009-0015]

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 HOLLYWOOD.

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-XXXX 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 March 20, 2009.

ADDRESSES: Comments should refer to docket number MARAD-2009-XXXX. 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 HOLLYWOOD is:

Intended Use: "Scattering of ashes at sea, sight seeing."

Geographic Region: "California."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Dated: February 10, 2009.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9-3475 Filed 2-17-09; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2009-0014]

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 L'ATITUDE 32.

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-2009-0014 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 March 20, 2009.

ADDRESSES: Comments should refer to docket number MARAD-2009-0014. 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 L'ATITUDE 32 is:

Intended Use: "The intended use of the vessel is to carry passengers only, and take six (6) or fewer paying passengers out for day sailing, or weekend overnight trips up the coastline. Often using a crew of between 1-4 persons."

Geographic Region: "Coastal California waters, and possibly in the

future Oregon, Washington and Hawaii”.

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: February 10, 2009.

By order of the Maritime Administrator.

Leonard Sutter,

Secretary, Maritime Administration.

[FR Doc. E9–3474 Filed 2–17–09; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Special Permits Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications Delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Delmer F. Billings, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East

Building, PHH–30, 1200 New Jersey Avenue, Southeast, Washington, DC 20590–0001, (202) 366–4535.

Key to Reason for Delay

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of special permit Applications.

Meaning of Application Number Suffixes

- N—New application
- M—Modification request
- PM—Party to application with modification request

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

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

Application No.	Applicant	Reason for delay	Estimated date of completion
Modification to Special Permits			
14167–M	Trinityrail Dallas, TX	4	03–31–2009
8723–M	Alaska Pacific Powder Company Anchorage, AK	1	02–28–2009
12412–M	Brenntag Southwest Sand Springs, OK	3, 4	02–28–2009
New Special Permit Applications			
14689–N	Trinity Industries, Inc. Dallas, TX	2, 3	02–28–2009
14733–N	GTM Technologies, Inc. San Francisco, CA	1, 3	03–31–2009

[FR Doc. E9–3374 Filed 2–17–09; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA).

ACTION: List of Applications for Modification of Special Permit.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of

Transportation’s Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Request of modifications of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix “M” demote a modification request. There applications have been separated from the new

application for special permits to facilitate processing.

DATES: Comments must be received on or before March 5, 2009.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation Washington, DC 20590

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, Southeast, Washington DC or at <http://dms.dot.gov>.

This notice of receipt of applications for modification of special permit is

published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 10, 2009.
Delmer F. Billings,
*Director, Office of Hazardous Materials
 Special Permits and Approvals.*

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
MODIFICATION SPECIAL PERMITS				
11624-M		Pacific Commercial Services, LLC Honolulu, HI.	49 CFR 173.173(b)(2)	To modify the special permit to authorize the transportation in commerce of household hazardous wastes identified as paint or paint related material, Class 3, in quantities greater than those presently authorized.
12571-M		AirProducts and Chemicals, Inc. Allentown, PA.	49 CFR 173.304(a)(2); 180.209	To modify the special permit to authorize the addition of Silane a Division 2.1 hazardous material and to add fill density for Silane.
13961-M		3AL Testing Corporation Denver, CO.	49 CFR 172.203(a); 172.301(c); 180.205(f), (g); 180.209(a).	To modify the special permit to reduce the number of calibration cylinders required for UE testing.
14149-M		Digital Wave Corporation Centennial, CO.	49 CFR 180.205, 180.209	To modify the special permit to reduce the number of calibration cylinders required for UE testing.
14436-M		BNSF Railway Company Topeka, KS.	49 CFR 174.14(a) and (b)	To modify the special permit to authorization additional unsignaled (dark) carrier lines.
14510-M		Clean Earth Systems, Inc. Tampa, FL.	49 CFR 173.12(b), 173.12(b)(2)(i)	To modify the special permit to add cargo vessel as an additional mode of transportation.
14773-M		Pacific Northwest National Laboratory (PNNL) Richland, WA.	49 CFR 173.416	To reissue the special permit originally issued on an emergency basis to authorize transportation in commerce of fissile material in a non DOT specification packaging.

[FR Doc. E9-3242 Filed 2-17-09; 8:45 am]
 BILLING CODE 4910-60-M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-43 (Sub-No. 182X)]

**Illinois Central Railroad Company—
 Abandonment Exemption—in Grenada
 County, MS**

Illinois Central Railroad Company (IC)¹ has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.20-mile line of railroad between milepost 311.90 and milepost 313.10, in Grenada, Grenada County, MS.² The line traverses United States Postal Service Zip Code 38901.

IC has certified that: (1) No local traffic has moved over the line for at

least 2 years; (2) there is no overhead traffic to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this

exemption will be effective on March 20, 2009, unless stayed pending reconsideration.³ Petitions to stay that do not involve environmental issues,⁴ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁵ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 2, 2009.⁶ Petitions to reopen or requests

³ Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. A Board staff member has informed IC that, because the official filing date of the notice is now January 29, 2009, consummation may not take place prior to March 20, 2009.

⁴ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁵ Effective July 18, 2008, the filing fee for an OFA increased to \$1,500. See *Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2008 Update*, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

⁶ IC notes, however, that it does not believe that the right-of-way would be of interest to the State of Mississippi or any other entity for public use

¹ IC is a wholly owned subsidiary of Canadian National Railway Company.

² IC originally filed its verified notice of exemption on January 8, 2009. However, the notice did not contain all of the information required under 49 CFR 1152.50. At the request of Board staff, on January 29, 2009, IC filed a supplement to its notice. Accordingly, January 29, 2009, will be considered the official filing date.

for public use conditions under 49 CFR 1152.28 must be filed by March 10, 2009, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to IC's representative: Thomas J. Healey, 17641 S. Ashland Avenue, Homewood, IL 60430-1345.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

IC has filed a combined environmental and historic report, which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by February 23, 2009. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), IC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by IC's filing of a notice of consummation by February 18, 2010, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at "<http://www.stb.dot.gov>."

Decided: February 10, 2009.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9-3229 Filed 2-17-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1023 (Sub-No. 1X)]

Puget Sound & Pacific Railroad Company—Abandonment Exemption—in Grays Harbor County, WA

On January 29, 2009, Puget Sound & Pacific Railroad Company (PS&P)¹ filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to permit PS&P to abandon an 8,344-foot long rail line that begins just south of where the railroad line crosses U.S. Highway 101 in Hoquiam, and proceeds in a northerly direction for 8,344 feet to the end of the line, in Grays Harbor County, WA. PS&P explains that the line begins 3,424 feet north of the main track clearance off of the Elma Main and is part of the line known as the Horn Spur.² The line traverses U.S. Postal Service Zip Code 98550, and includes the station of Hoquiam.

The line does not contain federally granted rights-of-way. Any documentation in PS&P's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by May 19, 2009.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,500 filing fee. See 49 CFR 1002.2(f)(25).³

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than March 10, 2009. Each

¹ PS&P is a subsidiary of Rail America, Inc.

² PS&P states that there are no mileposts on the line. PS&P also states that the line was purchased from The Burlington Northern and Santa Fe Railway Company in 1997. According to PS&P, the line has been embargoed since February 2008 due to track conditions.

³ Effective July 18, 2008, the filing fee for an OFA increased to \$1,500. See *Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2008 Update*, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

trail use request must be accompanied by a \$200 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-1023 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001; (2) Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204-4022; and (3) Scott G. Williams, Esq., Senior Vice President & General Counsel, RailAmerica, Inc., 7411 Fullerton Street, Suite 300, Jacksonville, FL 32256. Replies to the petition are due on or before March 10, 2009.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at "<http://www.stb.dot.gov>."

Decided: February 10, 2009.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9-3241 Filed 2-17-09; 8:45 am]

BILLING CODE 4915-01-P

because the right-of-way is situated in a developed urban area with a mature roadway system.

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****[STB Docket No. AB-1029 (Sub-No. 1X)]****San Diego & Imperial Valley Railroad Company, Inc.—Discontinuance of Service Exemption—in San Diego County, CA**

On January 29, 2009, San Diego & Imperial Valley Railroad Company, Inc. (SDIV) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to permit SDIV to discontinue service over a 1.35-mile line of railroad between milepost 19.85 and milepost 21.2 in the vicinity of Escondido, in San Diego County, CA.¹ The line traverses U.S. Postal Zip Codes 92025 and 92029 and includes the station of Escondido.

SDIV states that the line does not contain federally granted rights-of-way. Any documentation in SDIV's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment-Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by May 19, 2009.

Any offer of financial assistance (OFA) for subsidy under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,500 filing fee. See 49 CFR 1002.2(f)(25).

Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Nor is environmental or historic documentation required under 49 CFR 1105.6(c)(2) and 1105.8(b), respectively.

All filings in response to this notice must refer to STB Docket No. AB-1029 (Sub-No. 1X) and must be sent to: (1)

¹ SDIV leased the line from BNSF Railway Company (BNSF). According to SDIV, BNSF has terminated that lease and replaced SDIV as the operator of the line. The new operator is Pacific Sun Railroad, L.L.C. (Pacific Sun). See *Pacific Sun Railroad, L.L.C.—Lease and Operation Exemption—BNSF Railway Company*, STB Finance Docket No. 35173 (STB served Oct. 3, 2008) (authorizing Pacific Sun to lease and operate approximately 21.5 miles of BNSF Railway Company's rail lines and freight rail easement, including the segment at issue here).

Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001; and (2) Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204-4022. Replies to the petition are due on or before March 10, 2009.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full discontinuance regulations at 49 CFR part 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-977-8339.

Board decisions and notices are available on our Web site at "<http://www.stb.dot.gov>."

Decided: February 10, 2009.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Kulunie L. Cannon,
Clearance Clerk.

[FR Doc. E9-3194 Filed 2-17-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY**Community Development Financial Institutions Fund****Open Meeting of the Community Development Advisory Board**

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the next meeting of the Community Development Advisory Board (the Advisory Board), which provides advice to the Director of the Community Development Financial Institutions Fund (the CDFI Fund). The meeting will be conducted via telephone conference call.

DATES: The next meeting of the Advisory Board will be held from 2 p.m. to 3:30 p.m. Eastern Time on Thursday, March 5, 2009.

FOR FURTHER INFORMATION, CONTACT: The Office of Public and Legislative Affairs of the CDFI Fund, 601 Thirteenth Street, NW., Suite 200 South, Washington, DC 20005, (202) 622-8042 (this is not a toll free number). Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's Web site at <http://www.cdfifund.gov>.

SUPPLEMENTARY INFORMATION: Section 104(d) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(d)) established the Advisory Board. The charter for the Advisory Board has been filed in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and with the approval of the Secretary of the Treasury.

The function of the Advisory Board is to advise the Director of the CDFI Fund (who has been delegated the authority to administer the CDFI Fund) on the policies regarding the activities of the CDFI Fund. The Advisory Board shall not advise the CDFI Fund on the granting or denial of any particular application for monetary or non-monetary awards. The Advisory Board shall meet at least annually.

The next meeting of the Advisory Board, all of which will be open to the public, will be held from 2 p.m. to 3:30 p.m. Eastern Time on Thursday, March 5, 2009 via a telephone conference call. Public participation will be limited to 25 individual phone lines. Notification of intent to attend the meeting must be made via e-mail to advisoryboard@cdfi.treas.gov. The CDFI Fund will send confirmation of attendance and instructions on accessing the meeting to the first 25 individuals who submit notifications of intent.

Participation in the discussions at the meeting will be limited to Advisory Board members, Department of the Treasury staff, and certain invited guests. Anyone who would like to have the Advisory Board consider a written statement must submit it to the Office of Public and Legislative Affairs, CDFI Fund, 601 Thirteenth Street, NW., Suite 200 South, Washington, DC 20005, by 5 p.m. Eastern Time on Friday, February 27, 2009.

The Advisory Board meeting will include a presentation with recommendations by a subcommittee of the Advisory Board to the full Advisory Board and deliberation on those recommendations.

Authority: 12 U.S.C. 4703; Chapter X, Public Law 104-19, 109 Stat. 237.

Dated: February 12, 2009.

Donna J. Gambrell,
Director, Community Development Financial Institutions Fund.

[FR Doc. E9-3444 Filed 2-17-09; 8:45 am]

BILLING CODE 4810-70-P

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Federal Register

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

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