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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, March 17, 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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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

RIN 0563-AC18

General Administrative Regulations; Appeal Procedure

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) is amending the General Administrative Regulation, Appeal Procedure. This final rule incorporates a requirement mandated by the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) that allows producers to use both mediation and the informal administrative appeal process in their appeals of decisions by FCIC and making minor non-substantive changes for clarity.

DATES: *Effective Date:* This rule is effective February 26, 2009.

FOR FURTHER INFORMATION CONTACT: Cynthia Simpson, Director, Risk Management Agency Appeals, Litigation, and Legal Liaison Staff, 1400 Independence Avenue, SW., Stop 0806, Washington, DC 20250, telephone (202) 720-0642.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non-significant for the purpose of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

Paperwork Reduction Act of 1995

This rule does not constitute a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of section 202 and 205 of the UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have substantial direct effect on 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.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. All producers will have access to the same appeals process regardless of the size of their farming operation. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have a significant impact on a substantial number of small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372,

which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This provision has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

Pursuant to 7 CFR part 400, subpart J, any producer (individual or entity) who has applied for, or whose rights to participate in or receive a payment or benefit under the Federal crop insurance program, may contest an adverse decision rendered by the Risk Management Agency on behalf of FCIC. Prior to the enactment of the 2008 Farm Bill, a producer who disagreed with an adverse decision by RMA had three avenues in which to contest RMA's adverse decision—administrative review, mediation or appeal directly to the National Appeals Division (NAD). The participant could seek an administrative review or mediation, but not both. If the participant disagreed with an administrative review or mediation determination, the participant could appeal that determination to NAD.

Section 12032 of the 2008 Farm Bill allows a participant to choose both administrative review and mediation. However, a participant is not required to use both administrative review and mediation. Section 12032 merely provides the participant with an

additional opportunity at the administrative level to resolve adverse decisions. If the participant disagrees with an administrative review and/or mediation determination, the participant can appeal that determination to NAD. The provisions have been modified to allow these changes to the appeal procedure.

The rule is also being revised to add the provisions regarding matters of general applicability and their appealability to NAD that were erroneously removed from this subpart when it was last revised. Congress, in 7 U.S.C. 6992(d) expressly states that decisions must be adverse to the individual to be appealable to NAD and that matters of general applicability are not subject to appeal.

Good cause is shown to make this rule effective upon publication at the Office of the Federal Register. Good cause exists when notice and comment and 30 day delay in the effective date is impracticable, unnecessary, or contrary to the public interest.

FCIC is merely making ministerial changes to the policy that are mandated by the 2008 Farm Bill. There is no discretion given to FCIC in the terms contained in this rule or their implementation.

For the reasons stated above, good cause exists to make these policy changes effective upon publication at the Office of the Federal Register.

List of Subject in 7 CFR Part 400

General Administrative Regulations.

Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 400 subpart J as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

■ 1. The authority citation for 7 CFR part 400 is revised to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 2. Amend § 400.90 as follows:

■ A. Amend the definition of “Agency” by removing “RSO” and adding in its place “RO” and by removing “FOSD” and adding in its place “FAOB”;

■ B. In the definition of “Appellant” revise the first sentence;

■ C. Remove the definition of “FOSD”;

■ D. Add a definition of the term “FAOB”;

■ E. Remove the definition of “RSO”;

■ F. Add a definition of “RO”.

The additions and revisions read as follows:

§ 400.90 Definitions.

* * * * *

Appellant. Any participant who requests an administrative review or mediation, or both, of an adverse decision of the Agency in accordance with this subpart. * * *

* * * * *

FAOB. Financial and Accounting Operations Branch.

* * * * *

RO. The Regional Office established by the agency for the purpose of providing program and underwriting services for private insurance companies reinsured by FCIC under the Act and for FCIC insurance contracts delivered through FSA offices.

* * * * *

■ 3. Amend § 400.91 as follows:

■ A. Amend paragraph (c) introductory text by adding the phrase “or both,” after “mediation,”;

■ B. Amend paragraph (d) by removing the word “or” and adding in its place the word “and”;

■ C. Add new paragraph (e) to read as follows:

§ 400.91 Applicability.

* * * * *

(e) Notwithstanding any other provision, this subpart does not apply to any decision made by the Agency that is generally applicable to all similarly situated program participants. Such decisions are also not appealable to NAD. If the Agency determines that a decision is not appealable because it is a matter of general applicability, the participant must obtain a review by the Director of NAD in accordance with 7 CFR 11.6(a) of the Agency’s determination that the decision is not appealable before the participant may file suit against the Agency.

§ 400.93 [Amended]

■ 4. Amend paragraph (a) in § 400.93 by removing the phrase “, but not both”.

§ 400.94 [Amended]

■ 5. Amend paragraph (a) of § 400.94 by removing the phrase “instead of” and adding in its place the phrase “in addition to”.

Signed in Washington, DC on February 19, 2009.

William J. Murphy,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. E9–4114 Filed 2–25–09; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

RIN 0563–AC20

General Administrative Regulations; Submissions of Policies, Provisions of Policies, Rates of Premium and Premium Reduction Plans

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends General Administrative Regulations, Subpart V—Submission of Policies, Provisions of Policies, Rates of Premium and Premium Reduction Plans to remove provisions that allow approved insurance providers (AIP) to offer premium reduction plans. The authority for such premium reductions has been eliminated in the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill).

DATES: *Effective Date:* This rule is effective February 25, 2009.

FOR FURTHER INFORMATION CONTACT: Leiann Nelson, Economist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility—Mail Stop 0812, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0064.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be

exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On May 22, 2008, the 2008 Farm Bill was enacted. Section 12010 of the 2008 Farm Bill amended section 508(e) of the Federal Crop Insurance Act (Act) by removing paragraph (3), which has authorized AIPs to provide a premium discount to their insureds if they were able to deliver the crop insurance program for less money than they were paid in an administrative and operating expense reimbursement under section 508(k) of the (Act) and the Standard Reinsurance Agreement. The provisions of the 2008 Farm Bill are very specific and do not allow FCIC any discretion regarding interpretation of the provisions or their implementation. Therefore, elimination of the provisions authorizing the payment of the premium discount necessitates the removal of the relevant provisions in 7 CFR part 400, subpart V related to the premium reduction plan.

Good cause is shown to make this rule effective upon filing for public inspection at the Office of the Federal Register. Good cause exists when notice and comment and the 30-day delay in the effective date is impracticable, unnecessary, or contrary to the public interest. FCIC is merely making ministerial changes to the regulation that are mandated by the 2008 Farm Bill. There is no discretion given to FCIC in the terms contained in this rule or their implementation. Therefore, good cause exists to make this change effective upon filing for public inspection at the Office of the Federal Register.

List of Subjects in 7 CFR Part 400

Administrative practice and procedure, Crop insurance.

Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR Part 400 as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

■ 1. The authority citation for 7 CFR part 400 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

Subpart V—Submission of Policies, Provisions of Policies and Rates of Premium

■ 2. Revise the heading for subpart V to read as set forth above.

■ 3. Revise section § 400.700 to read as follows:

§ 400.700 Basis, purpose, and applicability.

This subpart establishes guidelines for the submission of policies, plans of insurance, and rates of premium to the Board as authorized under section 508(h) of the Act and for nonreinsured supplemental policies in accordance with the SRA, and the roles and responsibilities of FCIC and the applicant. It also specifies the procedures for requesting reimbursement for research and development costs, and maintenance costs for products and the approval process.

§ 400.701 [Amended]

■ 4. Revise section § 400.701 by removing the definitions for “Administrative and operating (A&O) costs,” “Agent,” “Approved procedures,” “Compensation,” “Efficiency,” “Eligible crop insurance contract,” “Eligible producer,” “Managing General Agent (MGA),” “Plan of Operations,” “Premium discount,” “Profit sharing arrangement,” “Reduction in service,” “Standard Reinsurance Agreement (SRA),” “Third Party Administrator (TPA),” “Underwriting gain,” and “Unfair discrimination”.

§§ 400.714–400.722 [Removed]

■ 5. Remove sections §§ 400.714 through 400.722.

Signed in Washington, DC, on February 19, 2009.

William J. Murphy,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. E9–4116 Filed 2–25–09; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB99

Common Crop Insurance Regulations; Cabbage Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the Common Crop Insurance Regulations; Cabbage Crop Insurance Provisions to convert the cabbage pilot crop insurance program to a permanent insurance program for the 2010 and succeeding crop years.

DATES: *Effective Date:* March 30, 2009.

FOR FURTHER INFORMATION CONTACT: Erin Albright, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility—Mail Stop 0812, PO Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is non-significant for the purposes of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563-0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The

provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take

specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On Thursday, November 16, 2006, FCIC published a notice of proposed rulemaking in the **Federal Register** at 71 FR 66694-66698 to add 7 CFR 457.171 Cabbage crop insurance provisions, effective for the 2009 and succeeding crop years. As a result of delays in the rulemaking process, the 2009 effective date became impossible and FCIC will have this rule effective for the 2010 crop year.

The public was afforded 60 days to submit written comments and opinions. A total of 30 comments were received from 3 commenters. The commenters were an insurance services organization, an insurance provider, and a grower association. The comments received and FCIC's responses are as follows:

Comment: One commenter suggested in the definition of "damaged cabbage production" to delete the word "For" at the beginning of the two phrases so it reads "Fresh market cabbage that fails to grade U.S. Commercial or better," and "or processing cabbage that fails to grade U.S. No. 2 or better."

Response: FCIC has revised the definition accordingly.

Comment: One commenter recommended rearranging the definition of "marketable cabbage" to avoid duplication of the phrase "Grades at least" at the beginning of subsections (a) and (b). The commenter recommended the definition read as, "Cabbage that is sold or grades at least: (a) U.S. Commercial for fresh market cabbage; or (b) U.S. No. 2 for processing cabbage."

Response: FCIC has revised the definition accordingly.

Comment: One commenter recommended adding the missing period at the end of the sentence in the definition of "planted acreage."

Response: FCIC has revised the definition accordingly.

Comment: One commenter recommended the definition of "price election" be moved to follow the definition of "planted acreage" to be in alphabetical order.

Response: FCIC has removed the definition of "price election" in response to other comments. Therefore, the requested change is no longer applicable.

Comment: One commenter questioned that if a processor contract specifies the number of acres rather than the amount of production contracted, how that contract would be affected by the requirement in the definition of "processor contract" that the processor must agree to " * * * purchase all the production stated in the contract * * * ". The commenter also questioned what the "specified conditions" under which delivery must be accepted.

Response: If the processor contract specifies the number of acres rather than the amount of production and the processor agrees to purchase all the production from the acreage stated in the contract, all such production would be considered to be under contract. Therefore, there is no difference if the processor contract refers to acreage or production. Both contracts are insurable under the terms of the policy as long as the processor agrees to accept all production from the acreage. The term "specified conditions" is vague so FCIC has removed the phrase "and to accept delivery subject only to specified conditions" from the definition of "processor contract."

Comment: One commenter stated the definition of "type" has changed from specifying "Green or red cabbage" to a more generic definition. The commenter questioned if there are other categories being considered, or is this just leaving the option of other categories available.

Response: A more generic definition will allow for changes or additional types in the future. For this reason, the definition refers to the categories of cabbage designated as a type in the Special Provisions.

Comment: One commenter supported basic units by planting period as proposed in section 2. In the past, growers in areas where the pilot has been operating have primarily bought CAT coverage because unit division has not been available. The commenter stated that without unit division the policy is of limited value, particularly because of the staggered planting dates for cabbage over a long period of time.

Response: FCIC has retained the proposed provisions in the final rule allowing basic units by planting period, if applicable, and optional units by type, if applicable.

Comment: One commenter stated since it might be possible to have both fresh and processing cabbage in the same unit, section 3 might need to be reviewed and possibly rearranged to

address that possibility. The procedure for determining the price, acres, premium, liability, and indemnity for cabbage could be extremely complicated with the potential for multiple price elections for fresh and processing in the same unit.

Response: Under the proposed rule it was possible to have processing cabbage under different processor contracts containing different prices in the same unit. Calculating the price, premium, liability and indemnity for the unit could be very complicated if there are multiple price elections for fresh and processing in the same unit. Therefore, the provisions in sections 3(c), 6 and 13(c)(1) regarding insuring processing cabbage under the price per hundredweight contained in a processor contract have not been retained in the final rule. FCIC will issue the price election for fresh and processing cabbage. As a result, the definition of "price election" has been removed because it is no longer needed because the definition in the Common Crop Insurance Policy Basic Provisions will be applicable.

Comment: Two commenters stated the proposed addition of section 3(c), addressing the possibility of different price elections for multiple processor contracts for processing cabbage, raises questions as to whether (a) and (b) apply only to fresh cabbage. The commenters recommended section 3(a) should be identified as "For fresh cabbage, * * * " and section 3(c) be identified as "For processing cabbage, * * * ". Clarification is also needed as to whether section 3(b), requiring the same price percentage relationship when there are separate price elections by type, applies only to fresh cabbage or also applies to the contract price elections for processing cabbage grown under contract.

Response: As stated above, FCIC has removed section 3(c), which would have insured processing cabbage using the contracted price in the processing contract. FCIC issues price elections for both fresh and processing cabbage. A cabbage producer must have a processor contract to obtain insurance on processing cabbage and must select one price election for each cabbage type designated in the Special Provisions. Therefore, sections 3(a) and (b) apply to both fresh and processing cabbage.

Comment: One commenter recommended changing the phrase "different price per hundredweights" in section 3(c) to the phrase "different prices per hundredweight." The commenter also recommended changing the word "stipulates" to "stipulate" in the parenthetical. If the parenthetical

phrase is not revised based on other comments, the first word should not be capitalized (or else, it needs to be treated as a separate sentence from the sentence that precedes it and each sentence needs its own period).

Response: As stated above, FCIC has removed section 3(c) in response to other comments.

Comment: One commenter stated the two different types of contracts (based on specific acreage or based on production to be delivered) in section 3(c) should be separated. The commenter recommended section 3(c) be revised and a new subsection (d) be added to read: "For processing cabbage: "(1) If there are multiple contracts stipulating specific acreage within the same unit with different price per hundredweights, each contract price will be considered a separate price election which will be multiplied by the number of acres specified under applicable processor contract. "(2) If there are multiple contracts stipulating production within the same unit with different price per hundredweights, each contract price will be considered a separate price election. "(3) Acres for contracts stipulating production will be determined by dividing the amount of production to the delivered by the approved yield. "(d) These *price* amounts will be totaled to determine the premium, liability and indemnity for the unit."

Response: As stated above, FCIC has removed the proposed provisions that would insure processing cabbage using the contracted prices.

Comment: Two commenters stated there are some concerns with the new language in section 3(c) with regard to determining the number of acres used when a production contract is in effect. The calculation may result in an artificial number of acres that do not match what can or will be planted to cabbage (and should not exceed the number of acres actually planted to cabbage). One commenter recommended adding a definition of insured acres since insured acres may not be planted acres and instead of determining the acres (when a contract stipulates the amount of production) by dividing, using a cup and cap on the result would be more accurate.

Response: FCIC has removed section 3(c), which would have insured processing cabbage using the contracted price. However, the commenter is correct that there must be a means to calculate insurable acreage. FCIC has revised section 8(c) to clarify how to determine insurable acreage. As revised in section 8(c), insurable acreage for acreage and production based processor

contracts is based on the lesser of the planted acres or the maximum acres stated in the processor contract. Insurable acreage for production based processor contracts will be based on the lesser of the planted acres or the number of acres determined by dividing the production stated in the processor contract by the approved yield. In addition, FCIC has changed the reference to "insurable acreage" in section 13(c)(1) to be consistent with section 8(c). These revisions will prevent over-insurance.

Comment: One commenter stated the price used to determine liability is the only aspect of determining liability covered in section 3 of the proposed rule. Additional information must be added in order for insurance providers to understand the necessary calculations. For example, the commenter asked how liability is determined for processing cabbage when the insured has one basic unit, two separate basic units or two optional units and: (1) A single contract stipulating total production to be delivered; (2) a single contract stipulating different prices for production to be delivered; or (3) multiple contracts stipulating total production to be delivered. The commenter stated the last sentence of section 3(c) in the proposed rule states "These amounts will be totaled to determine the premium, liability and indemnity for the unit." The use of the "These amounts" is vague. The placement of this sentence within section 3(c) is also questionable. The commenter questioned whether the intent of this sentence is to convey that though different prices may apply to different acres (based on different contract prices and/or prices from the actuarial documents), the liability for the unit is the total of the liabilities determined in accordance with section 3.

Response: As stated above, FCIC has removed section 3(c) in response to other comments.

Comment: One commenter questioned if the deletion of the July 31 date for California in section 5 means that California will have whatever date is "designated in the Special Provisions," or will cabbage no longer be insurable in this state.

Response: California is not participating in the cabbage program at this time; if they do participate at a later date they will be eligible under the category "All other states and counties" and the date will be designated in the Special Provisions.

Comment: One commenter recommended adding a comma in

section 6 following the phrase "in your processor contract" for clarity.

Response: FCIC has removed the phrase "under the price per hundredweight contained in your processor contract" in section 6 in response to other comments. FCIC has added a comma following the word "cabbage."

Comment: One commenter stated in section 7(a)(1) through (6) the change of "and" to "or" following section 7(a)(5) seems to indicate that not all six of these provisions will apply in all cases. However, the "or" could be understood to mean that as long as one of the other provisions applies, it is not necessary for the cabbage to be planted within the applicable plating periods. Therefore, the commenter recommended combining subsections (4) and (5) into one subsection for cabbage that is either fresh or processing cabbage, then the word "or" at the end of subsection (5) can be changed to the word "and".

Response: FCIC has revised the provision accordingly.

Comment: Two commenters stated the reference to "mustard" in section 7(b) needs to be corrected to "cabbage".

Response: FCIC has revised the provision accordingly.

Comment: One commenter stated since the proposed provisions in sections 7(b) and (c) address the insured share rather than the insured crop, the commenter recommended putting them under a separate "Share Insured" section corresponding to section 10 of the Basic Provisions.

Response: The provisions of sections 7(b) and (c) are consistent with other Crop Provisions. Therefore, no change has been made.

Comment: One commenter stated in section 9(b) it states, "In accordance with the provisions of section 11 of the Basic Provisions, the end of the insurance period will be the earlier of: "(1) The date the crop should have been harvested; "(2) For processing cabbage, the date you harvested sufficient production to fulfill your processor contract * * *; or "(3) The following applicable calendar date after planting:* * *" This seems to exclude any consideration of the other conditions of the Basic Provisions (i.e., abandonment, harvest, final adjustment of the loss, etc.). The commenter stated if section 9(b) were to be revised to read "In addition to the provisions of section 11(b) of the Basic Provisions * * *" it would be clear that these other conditions still apply.

Response: FCIC has changed the phrase "In accordance with" to "In addition to".

Comment: One commenter recommended section 10(a)(2) be clarified to read "Fire, due to natural causes" or "Fire, if caused by lightning" as is in the proposed revision to the Tobacco Crop Provisions.

Response: Section 12 of the Basic Provisions states all specified causes of loss must be due to a naturally occurring event. Further, if the requirement for natural causes was only included with regard to fire, it may create the mistaken impression that fire is the only cause of action that must be from natural causes. Therefore, no change has been made.

Comment: One commenter stated the word "a" needs to be added before the phrase "cause of loss" in section 10(a)(7).

Response: FCIC has revised the provision accordingly.

Comment: One commenter stated in sections 11(c)(1) and (2) that, without some indication in the proposed rule as to what range of hundredweight might be given in the Special Provisions to replace the previous policy language or why the specified figures are being removed, it is difficult to comment since there is no way of knowing the significance of the proposed policy change. The commenter also recommended changing the semicolon to a comma preceding the phrase "multiplied by your insured share" at the end of the first sentence in section 11(c).

Response: FCIC revised sections 11(c)(1) and (2) to specify that the amount of replanting payment per acre will be contained in the Special Provisions because the replant costs vary considerably by region. The amount in hundredweight will be the amount to cover the cost of replanting the crop in that region. The semicolon in the first sentence of section 11(c) should be changed to a comma and the provision has been revised accordingly.

Comment: One commenter questioned if the phrase "In addition to section 14 of the Basic Provisions," in section 12(b)(1) means the allowance for notice of damage not later than 15 days after the end of the insurance period from the Basic Provisions is still afforded.

Response: FCIC did not intend for the 15 days after the end of insurance period notice of damage from section 14(a)(2)(Your Duties) of the Basic Provisions to be applicable to cabbage. FCIC has revised section 12(b) to clarify proposed section 12(b)(1) was in lieu of section 14(a)(2)(Your Duties) of the Basic Provisions. FCIC added a new section 12(c) and redesignated sections 12(b)(2), (3), and (4) as sections 12(c)(1), (2), and (3), respectively, to clarify these

provisions were intended to be in addition to section 14 of the Basic Provisions. The proposed sections 12(c) and (d) have been redesignated as sections 12(d) and (e), respectively, and the reference to section 12(b) in redesignated section 12(d) has been revised to reference the new sections 12(b) and (c).

Comment: One commenter recommended either adding a comma before the phrase “except for stored cabbage” or putting this phrase in parentheses in section 12(c).

Response: FCIC has added a comma before the phrase “except for stored cabbage” in redesignated section 12(d).

Comment: One commenter stated unless the provision in section 12(d) affects more than just what is in section 14(a)(3) of the Basic Provisions, the commenter recommended keeping the more specific reference to section 14(a)(3) in the first sentence so people do not have to read through all of section 14 of the Basic Provisions.

Response: FCIC has revised the provision accordingly.

Comment: Two commenters stated in section 13(a)(1) the sentence following section 13(a)(1)(ii) “For any processor contract that stipulates * * *” should be identified as subsection (a)(2) otherwise, (a)(1) includes two sets of (i) and (ii), though perhaps it would be better if this subsection were moved to section 13(d) [production to count]. One commenter also stated the spelling of “notwithstanding” needs to be corrected to “notwithstanding”.

Response: FCIC has identified the paragraph following section 13(a)(1)(ii) as subsection (a)(2) and has corrected the spelling to “notwithstanding”. FCIC has also removed sections 13(a)(2)(ii) and (iii) and combined section 13(a)(2) with section 13(a)(2)(i) to be consistent with the changes in the Mustard Crop Insurance Provisions, which were recently converted to a permanent crop insurance program and contain provisions regarding a processing crop.

Comment: Two commenters stated section 13(a)(2)(ii) [if the subsection (a)(2) is added as recommended above] references section 13(b)(4), but there is no section 13(b)(4).

Response: As stated above, FCIC has removed section 13(a)(2)(ii) to be consistent with the changes in the Mustard Crop Insurance Provisions, which were recently converted to a permanent crop insurance program and contain provisions regarding a processing crop.

Comment: One commenter stated it is unclear whether the reference to section 13(b) in section 13(a)(2)(iii) [if the subsection (a)(2) is added as

recommended above] is correct. The commenter stated perhaps it should reference section 13(c).

Response: As stated above, FCIC has removed section 13(a)(2)(iii) to be consistent with the changes in the Mustard Crop Insurance Provisions, which were recently converted to a permanent crop insurance program and contain provisions regarding a processing crop.

Comment: One commenter stated section 13(c)(1) references the term “insured acreage”. The commenter recommended adding a definition of insured acreage.

Response: FCIC has added language in section 8(c) explaining how insurable acreage is determined for processing cabbage. In addition, FCIC has changed the reference from “insured acreage” to “insurable acreage” in section 13(c)(1) to be consistent with section 8(c).

Comment: Two commenters stated the background of this proposed rule states quality adjustments have been added. There is no specific reference to quality adjustments; however, section 13(e) notes an adjustment for damaged production that is sold. The commenters recommended that, in order to maintain consistency with other Crop Provisions and to provide clarity, section 13(e) should contain language regarding the conditions under which quality adjustments will be used.

Response: FCIC erroneously stated in the proposed rule that quality adjustments have been added to the provisions. Quality adjustment provisions were already contained in the Pilot Cabbage Crop Provisions. FCIC has revised the language in section 13(e)(1) to be more consistent with other Crop Provisions and to reference a quality adjustment. Further, the definition of “local market price” has been removed because it is no longer required. The provision now refers to the amount received. For cabbage to be adjusted for damage, the damage must have been caused by an insured cause of loss, but the damaged cabbage must be marketable. The definition of “marketable cabbage” in section 1 establishes that cabbage production that is sold or grades at least U.S. Commercial for fresh market cabbage or grades at least U.S. No. 2 for processing cabbage is marketable.

In addition to the changes described above, FCIC has made minor editorial changes and added a definition for “crop year.” FCIC has also removed any reference to South Carolina because they will no longer be participating in the program.

List of Subjects in 7 CFR Part 457

Crop insurance, Cabbage, Reporting and recordkeeping requirements.

Final Rule

■ Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 for the 2010 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

■ 2. Section 457.171 is added to read as follows:

§ 457.171 Cabbage crop insurance provisions.

The Cabbage Crop Insurance Provisions for the 2010 and succeeding crop years are as follows:

FCIC policies: United States Department of Agriculture, Federal Crop Insurance Corporation.

Reinsured policies: (Appropriate title for insurance provider).

Both FCIC and reinsured policies: Cabbage Crop Insurance Provisions.

1. Definitions

Cabbage. Plants of the family Brassicaceae and the genus Brassica, grown for their compact heads and used for human consumption.

Crop Year. In lieu of the definition contained in section 1 of the Basic Provisions, a period of time that begins on the first day of the earliest planting period and continues through the last day of the insurance period for the latest planting period. The crop year is designated by the calendar year in which the cabbage planted in the latest planting period is normally harvested.

Damaged cabbage production. Fresh market cabbage that fails to grade U.S. Commercial or better in accordance with the United States Standards for Grades of Cabbage, or processing cabbage that fails to grade U.S. No. 2 or better in accordance with the United States Standards for Grades of Cabbage for Processing due to an insurable cause of loss.

Direct marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

Harvest. Cutting of the cabbage plant to sever the head from the stalk.

Hundredweight. One hundred pounds avoirdupois.

Inspected transplants. Cabbage plants that have been found to meet the standards of the public agency responsible for the inspection process within the State in which they are grown.

Marketable cabbage. Cabbage that is sold or grades at least:

(a) U.S. Commercial for fresh market cabbage; or

(b) U.S. No. 2 for processing cabbage.

Planted acreage. In addition to the definition contained in section 1 of the Basic Provisions, cabbage plants and seeds must initially be planted in rows wide enough to permit mechanical cultivation. Cabbage planted or seeds planted in any other manner will not be insurable unless otherwise provided by the Special Provisions, actuarial documents, or by written agreement.

Processor. Any business enterprise regularly engaged in processing cabbage for human consumption, that possesses all licenses and permits for processing cabbage required by the State in which it operates, and that possesses facilities, or has contractual access to such facilities, with enough equipment to accept and process the contracted cabbage within a reasonable amount of time after harvest.

Processor contract. A written contract between the producer and the processor, containing at a minimum:

(a) The producer's commitment to plant and grow cabbage, and to sell and deliver the cabbage production to the processor;

(b) The processor's commitment to purchase all the production stated in the processor contract; and

(c) A price per hundredweight that will be paid for the production.

Timely planted. In lieu of the definition contained in section 1 of the Basic Provisions, cabbage planted during a planting period designated in the Special Provisions.

Type. A category of cabbage as designated in the Special Provisions.

2. Unit Division

(a) A basic unit, as defined in section 1 of the Basic Provisions, will also be divided into additional basic units by planting period if separate planting periods are designated in the Special Provisions.

(b) In addition to the requirements of section 34 of the Basic Provisions, optional units may also be established by type if separate types are designated in the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may select only one price election for all the cabbage in the county insured under this policy unless the Special Provisions provide different

price elections by type, in which case you may select one price election for each cabbage type designated in the Special Provisions.

(b) The price elections you choose for each type must bear the same percentage relationship to the maximum price election offered by us for each type. For example, if you selected 100 percent of the maximum price election for one type, you must also select 100 percent of the maximum price election for all other types.

4. Contract Changes

In accordance with the provisions of section 4 of the Basic Provisions, the contract change dates are the following calendar dates preceding the cancellation dates:

(a) April 30 in Florida; Brooks, Colquitt, Tift, and Toombs Counties, Georgia; and Texas;

(b) November 30 in Alaska; Rabun County, Georgia; Illinois; Michigan; New York; North Carolina; Ohio; Oregon; Pennsylvania; Virginia; Washington; and Wisconsin; or

(c) As designated in the Special Provisions for all other states and counties.

5. Cancellation and Termination Dates

In accordance with the provisions of section 2 of the Basic Provisions, the cancellation and termination dates are:

State and counties	Cancellation and termination dates
Brooks, Colquitt, Tift, and Toombs Counties, Georgia; Texas	July 1.
Florida	August 15.
Oregon, Washington	February 1.
Rabun County, Georgia; North Carolina	February 28.
Alaska, Illinois, Michigan, New York, Ohio, Pennsylvania, Virginia, and Wisconsin	March 15.
All other states and counties	As designated in the Special Provisions.

6. Report of Acreage

In addition to the provisions of section 6 of the Basic Provisions, to insure your processing cabbage, you must provide a copy of all your processor contracts to us on or before the acreage reporting date.

7. Insured Crop

(a) In accordance with the provisions of section 8 of the Basic Provisions, the crop insured will be all the cabbage types in the county for which a premium rate is provided by the actuarial documents, in which you have a share, and that are:

(1) Planted with inspected transplants, if such transplants are required by the Special Provisions;

(2) If direct seeded, planted with hybrid seed unless otherwise permitted by the Special Provisions;

(3) Planted within the planting periods as designated in the Special Provisions;

(4) Planted to be:

(i) Harvested and sold as fresh cabbage; or

(ii) Grown and sold as processing cabbage in accordance with the requirements of a processor contract executed on or before the acreage reporting date and not excluded from the processor contract at any time during the crop year; and

(5) Unless allowed by the Special Provisions:

(i) Not interplanted with another crop; and

(ii) Not sold by direct marketing.

(b) Under the processor contract, you will be considered to have a share in the insured crop to the extent you retain control of the acreage on which the cabbage is grown, your income from the insured crop is dependent on the amount of production delivered, and the processor contract provides for delivery of the cabbage under specified conditions and at a stipulated price.

(c) A processing cabbage producer who is also a processor may establish an insurable interest if the following additional requirements are met:

(1) The producer must comply with these Crop Provisions;

(2) Prior to the sales closing date, the Board of Directors or officers of the processor must execute and adopt a

resolution that contains the same terms as an acceptable processor contract. Such resolution will be considered a processor contract under this policy; and

(3) Our inspection reveals that the processing facilities comply with the definition of "processor" contained in these Crop Provisions.

8. Insurable Acreage

In addition to the provisions of section 9 of the Basic Provisions:

(a) We will not insure any acreage that does not meet the rotation requirements contained in the Special Provisions.

(b) Any acreage of the insured crop damaged before the end of the planting period, to the extent that a majority of producers in the area would normally not further care for the crop, must be replanted unless we agree that it is not practical to replant.

(c) For processing cabbage, insurable acreage will be:

(1) For acreage only based processor contracts, and acreage and production based processor contracts which specify a maximum number of acres, the lesser of:

(i) The planted acres; or
(ii) The maximum number of acres specified in the contract;

(2) For production only based processor contracts, the lesser of:

(i) The number of acres determined by dividing the production stated in the processor contract by the approved yield; or

(ii) The planted acres.

9. Insurance Period

(a) In lieu of the provisions of section 11 of the Basic Provisions, coverage begins on each unit or part of a unit the later of:

(1) The date we accept your application; or

(2) When the cabbage is planted in each planting period.

(b) In addition to the provisions of section 11 of the Basic Provisions, the end of the insurance period will be the earlier of:

(1) The date the crop should have been harvested; or

(2) The following applicable calendar date after planting:

(i) Alaska: October 1;

(ii) Florida:

(A) February 15 for the fall planting period;

(B) April 15 for the winter planting period; and

(C) May 31 for the spring planting period;

(iii) Brooks, Colquitt, Tift, and Toombs Counties, Georgia:

(A) January 15 for the fall planting period; and

(B) June 15 for the spring planting period;

(iv) Rabun County, Georgia:

(A) September 15 for the spring planting period; and

(B) October 31 for the summer planting period;

(v) Illinois, Michigan, New York, Ohio, and Pennsylvania:

(A) September 30 for the spring planting period; and

(B) November 25 for the summer planting period;

(vi) North Carolina:

(A) July 10 for the spring planting period; and

(B) December 31 for the fall planting period;

(vii) Oregon: December 31;

(viii) Texas:

(A) December 31 for the summer planting period;

(B) February 15 for the fall planting period; and

(C) April 30 for the winter planting period;

(ix) Virginia:

(A) July 31 for the early spring planting period;

(B) September 15 for the spring planting period; and

(C) November 15 for the summer planting period;

(x) Washington: December 31;

(xi) Wisconsin: November 5; and

(xii) All other states and counties as provided in the Special Provisions.

10. Causes of Loss

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Wildlife;

(4) Insects or plant disease, but not damage due to insufficient or improper application of control measures;

(5) Earthquake;

(6) Volcanic eruption; or

(7) Failure of the irrigation water supply, if caused by a cause of loss specified in sections 10(a)(1) through (6) that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to:

(1) Failure to market the cabbage for any reason other than actual physical damage from an insured cause of loss that occurs during the insurance period (For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production, etc.); or

(2) Damage that occurs or becomes evident after the end of the insurance period, including, but not limited to,

damage that occurs or becomes evident after the cabbage has been placed in storage.

11. Replanting Payments

(a) In accordance with the provisions of section 13 of the Basic Provisions, a replanting payment is allowed if the crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage and it is practical to replant.

(b) No replanting payment will be made on acreage planted prior to the initial planting date or after the end of the final planting period as designated by the Special Provisions.

(c) In accordance with the provisions of section 13(c) of the Basic Provisions, the maximum amount of the replanting payment per acre is the number of hundredweight specified in the Special Provisions multiplied by your price election, multiplied by your insured share. The fresh market cabbage price election will be used to determine processing cabbage replanting payments in counties where both fresh market and processing cabbage are insurable.

(d) When the insured crop is replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment attributable to your share. The premium will not be reduced.

(e) In lieu of the provisions contained in section 13 of the Basic Provisions that limit a replanting payment to one each crop year, only one replanting payment will be made for acreage replanted during each planting period within the crop year, if separate planting periods are allowed by the Special Provisions.

12. Duties In The Event of Damage or Loss

(a) Failure to meet the requirements of this section will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(b) In lieu of the provisions of section 14(a)(2)(Your Duties) of the Basic Provisions, so that we may inspect the insured crop, you must give us notice within 72 hours of your initial discovery of damage if such discovery occurs more than 15 days prior to harvest of the acreage.

(c) In addition to the provisions of section 14(a)(3) (Your Duties) of the Basic Provisions, so that we may inspect the insured crop, you must give us notice:

(1) Immediately if damage is discovered 15 days or less prior to the beginning of harvest or during harvest.

(2) At least 15 days prior to the beginning of harvest, if direct marketing of the insured crop is allowed by the Special Provisions, and you intend to direct market any of the crop.

(3) At least 15 days before the earlier of:

(i) The date harvest would normally start if any acreage on the unit will not be harvested; or

(ii) The beginning of harvest, if any production will be harvested for a use other than as indicated on the acreage report.

(d) After you have provided the applicable notice required by sections 12(b) and (c), we will conduct an appraisal to determine your production to count for the purposes of section 13(d).

(1) Except as provided in section 12(e), you must not dispose of or sell the damaged crop, or store the insured crop, until after we have appraised it and given you written consent to do so.

(2) If additional damage occurs after this appraisal, except for stored cabbage, we will conduct another appraisal.

(3) These appraisals, and any acceptable records provided by you, will be used to determine your production to count in accordance with section 13(d).

(e) In accordance with the requirements of section 14 of the Basic Provisions, if you initially discover damage to any insured cabbage within 15 days of or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 3 rows wide and extend the entire length of each field in the unit and must not be harvested or destroyed until the earlier of our inspection or 15 days after completion of harvest on the unit.

13. Settlement of Claim

(a) We will determine your loss on a unit basis.

(1) In the event you are unable to provide separate acceptable production records:

(i) For any optional units, we will combine all optional units for which such production records were not provided; and

(ii) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(2) For any processor contract that stipulates only the amount of production to be delivered, and notwithstanding the provisions of this section or any unit division provisions contained in the Basic Provisions, no indemnity will be paid for any loss of production on any unit if you produced a crop sufficient to fulfill the processor

contract(s) forming the basis of the insurance guarantee;

(b) The extent of any damaged cabbage production must be determined not later than the date the cabbage is placed in storage if the production is stored prior to sale, or the date the cabbage is delivered to a buyer, wholesaler, packer, processor, or other handler if production is not stored.

(c) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insurable acreage by its respective production guarantee (per acre), by type if applicable;

(2) Multiplying each result in section 13(c)(1) by the respective price election, by type if applicable;

(3) Totaling the results in section 13(c)(2);

(4) Multiplying the total production to count of each type, if applicable (see section 13)(d)), by its respective price election;

(5) Totaling the results in section 13(c)(4);

(6) Subtracting the results in section 13(c)(5) from the results of section 13(c)(3); and

(7) Multiplying the result in section 13(c)(6) by your share.

For example:

For a basic unit you have 100 percent share in 100 acres of cabbage, 50 acres for fresh market and 50 acres for processing as sauerkraut, with a production guarantee (per acre) of 400 hundredweight per acre for fresh market and 400 hundredweight per acre for processing as sauerkraut and a price election of \$5.00 per hundredweight for fresh market and \$1.90 per hundredweight for processing as sauerkraut. You are only able to harvest 9,000 hundredweight of fresh market cabbage and 9,000 hundredweight of cabbage for sauerkraut because an insured cause of loss has reduced production. Your total indemnity would be calculated as follows:

(1) 50 acres \times 400 hundredweight = 20,000 hundredweight guarantee for the fresh market acreage.

50 acres \times 400 hundredweight = 20,000 hundredweight guarantee for the processing as sauerkraut acreage.

(2) 20,000 hundredweight guarantee \times \$5.00 price election = \$100,000 value of guarantee for the fresh market cabbage.

20,000 hundredweight guarantee \times \$1.90 price election = \$38,000 value of guarantee for processing as sauerkraut.

(3) \$100,000 + \$38,000 = \$138,000 total value of guarantee.

(4) 9,000 hundredweight \times \$5.00 price election = \$45,000 value of production to count for the fresh market acreage.

9,000 hundredweight \times \$1.90 price election = \$17,100 value of production

to count for the acreage for processing as sauerkraut.

(5) \$45,000 + \$17,100 = \$62,100 total value of production to count.

(6) \$138,000 - \$62,100 = \$75,900 loss.

(7) \$75,900 \times 100 percent share = \$75,900 indemnity payment.

(d) The total production to count (in hundredweight) of marketable cabbage from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee (per acre) for acreage:

(A) That is abandoned;

(B) For which you fail to meet the requirements contained in section 12;

(C) That is put to another use without our consent;

(D) That is damaged solely by uninsured causes; or

(E) For which you fail to provide production records that are acceptable to us;

(ii) All production lost due to uninsured causes;

(iii) All unharvested marketable production;

(iv) All potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(e) Mature production that is considered damaged cabbage production but is sold will be adjusted for quality as follows:

(1) Dividing the amount received per hundredweight of such damaged cabbage production by the applicable price election; and

(2) Multiplying the result by the number of hundredweight of damaged cabbage production.

14. Late and Prevented Planting

The late and prevented planting provisions of the Basic Provisions are not applicable.

Signed in Washington, DC, on February 19, 2009.

William J. Murphy,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. E9-4118 Filed 2-25-09; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2007-29255; Directorate Identifier 2007-NM-085-AD; Amendment 39-15821; AD 2009-04-15]

RIN 2120-AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes. This AD requires repetitive internal eddy current and detailed inspections to detect cracked stringer tie clips; measuring the fastener spacing and the edge margin if applicable, and doing applicable corrective and related investigative actions. As a temporary alternative to doing the actions described previously, this AD requires repetitive external general visual inspections of the skin and lap joints and repetitive external eddy current sliding probe inspections, as applicable, of the lap joints for cracks and evidence of overload resulting from cracked stringer tie clips, and applicable corrective actions if necessary. This AD results from a report of several cracked stringer tie clips. We are issuing this AD to detect and correct multiple adjacent cracked stringer tie clips and damaged skin and frames, which could lead to the skin and frame structure developing cracks and consequent decompression of the airplane.

DATES: This AD becomes effective April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 2, 2009.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT:

Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6447; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes. That supplemental NPRM was published in the **Federal Register** on August 29, 2008 (73 FR 50899). That supplemental NPRM proposed to require repetitive internal eddy current and detailed inspections to detect cracked stringer tie clips; measuring the fastener spacing and the edge margin if applicable, and doing applicable corrective and related investigative actions. That supplemental NPRM also proposed to require repetitive external eddy current sliding probe inspections of the lap joints for cracks and evidence of overload resulting from cracked stringer tie clips, and applicable corrective actions if necessary.

Comments

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

Request To Clarify Effectivity

Boeing asks that the affected airplanes specified in Note 3 of the supplemental NPRM be clarified. Boeing states that the original issue of Boeing Service Bulletin 737-53-1085, Revision 1, dated May 10, 1990 (referred to in Note 3), contains an error in the affected airplanes shown in the summary section. Boeing notes that the error shows line numbers 1 through 1000. Boeing also states that in the planning information section of that service bulletin, it shows line number 1000/part number 136 is not included in the Group 2 airplanes (all affected Model 737-200 airplanes). In addition, Boeing Service Bulletin 737-53-1085, Revision 1, dated May 10, 1990, includes a change to the production line for line numbers 1000 and on. Boeing asks that Note 3 of the supplemental NPRM be changed to replace line number 1000 with line number 999, and to replace line number 1001 with line number 1000. We agree for the reasons provided and have changed Note 3 for clarification.

Request To Clarify Paragraph (g)

Boeing asks that we clarify the first sentence in paragraph (g) of the supplemental NPRM (paragraph (f) of the final rule) by adding “as applicable” after the inspection method. We agree because the inspection method depends on the type of stringer clip. We have changed paragraph (f) of the AD accordingly.

Request To Clarify Paragraph (h)

Boeing asks that we clarify the first sentence in paragraph (h) of the supplemental NPRM (paragraph (g) of the final rule) by adding “as applicable” to that sentence. We agree because the inspection types are appropriate only for certain airplanes. We have changed paragraph (g) of the AD accordingly.

Request To Move Note 2

Boeing asks that we move Note 2 of the supplemental NPRM from its current position below paragraph (h) of the supplemental NPRM (paragraph (g) of the final rule) to the position below paragraph (g) (paragraph (f) of the final rule) and Note 1 of the supplemental NPRM. Boeing states that Note 2 pertains to the optional/economic inspections, which are relative to those inspections specified in paragraph (g), not paragraph (h). Boeing notes that

Note 2 provides supplemental information about paragraph (g). Boeing adds that Note 2 should be moved to correspond with Inspection A, which is specified in paragraph (g). We agree for the reasons provided and we have moved Note 2 to the position below Note 1.

Change to Final Rule

We have removed the “Service Bulletin Reference” paragraph from this

AD, and re-identified subsequent paragraphs accordingly. (That paragraph was identified as paragraph (f) in the supplemental NPRM.) Instead, we have spelled out the service bulletin citations throughout this AD.

Conclusion

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

with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 787 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours ¹	Average labor rate per hour	Cost per airplane ¹	Number of U.S.-registered airplanes	Fleet cost ¹
Inspection A	Between 40 and 103	\$80	Between \$3,200 and \$8,240, per inspection cycle.	787	Between \$2,518,400 and \$6,484,880, per inspection cycle.
Inspection B (temporary alternative to Inspection A).	Between 2 and 109	80	Between \$160 and \$8,720.	787	Between \$125,920 and \$6,862,640, per inspection cycle.

¹ Depending on the airplane configuration.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866;
- (2) Is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009-04-15 Boeing: Amendment 39-15821. Docket No. FAA-2007-29255; Directorate Identifier 2007-NM-085-AD.

Effective Date

(a) This AD becomes effective April 2, 2009.

Affected ADs

(b) AD 93-08-04, amendment 39-8551.

Applicability

(c) This AD applies to Boeing Model 737-100, -200, -200C, -300, -400, and -500 series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006.

Unsafe Condition

(d) This AD results from a report of several cracked stringer tie clips. We are issuing this AD to detect and correct multiple adjacent cracked stringer tie clips and damaged skin and frames, which could lead to the skin and frame structure developing cracks and consequent decompression of the airplane.

Compliance

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

Inspection A: Required Internal Inspections, Applicable Corrective and Related Investigative Actions, and Measurement

(f) Do repetitive internal eddy current and detailed inspections, as applicable, to detect cracked stringer tie clips; measure the fastener spacing and the edge margin if applicable; and do applicable corrective and related investigative actions. Do all applicable actions at the applicable compliance times and repeat intervals identified in Tables 2 through 8 inclusive of paragraph 1.E., “Compliance,” of Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006 (“the service bulletin”); except as provided by paragraphs (h) through (k) of this AD. Do all applicable actions in accordance with the Accomplishment Instructions of the service bulletin, except as provided by paragraph (l) of this AD.

Note 1: Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006, refers to Boeing Service Bulletin 737-53A1177, Revision 6, dated May 31, 2001, as an additional source of service information for doing an internal eddy current inspection of the lap joint for certain airplane configurations.

Note 2: The eddy current inspections along the stringer tie clip radius to detect damage and replacement, as applicable, specified in paragraph 3.B.5. of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006, are not required by this AD. The actions are optional and can be done in addition to and at the same time as the actions required by paragraph (f) of this AD.

Inspection B: Temporary Alternative External Inspections and Corrective Actions

(g) As a temporary alternative to doing the actions required by paragraph (f) of this AD, do repetitive external general visual inspections of the skin and lap joints and repetitive external eddy current sliding probe inspections, as applicable, of the lap joints for cracks and evidence of overload resulting from cracked stringer tie clips, and applicable corrective actions if necessary. Do all applicable actions at the applicable compliance times and repeat intervals identified in Tables 9 through 12 inclusive of paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006 ("the service bulletin"), but not to exceed the flight cycles in the "Inspection Period Allowed" column of the tables; except as provided by paragraphs (h) and (k) of this AD. Do all applicable actions in accordance with the Accomplishment Instructions of the service bulletin, except as provided by paragraph (l) of this AD.

Note 3: Inspection B may be used on affected airplanes having line numbers 1 through 999 inclusive on which the terminating action (*i.e.*, replacement of stringer tie clips) specified in Boeing Service Bulletin 737-53-1085, Revision 1, dated May 10, 1990, has been done; and on affected airplanes having line numbers 1000 and subsequent. Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006, contains a similar note.

Exceptions to Service Information

(h) Where Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006 ("the service bulletin"), specifies a compliance time after the date of the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) For Model 737-100, -200, and -200C series airplanes, on which Boeing Service Bulletin 737-53-1085, Revision 1, dated May 10, 1990, has not been done in accordance with AD 93-08-04: As of the effective date of this AD, do the applicable inspections from station (STA) 559 to STA 887 in accordance with paragraph (f) of this AD, at the applicable compliance times specified in paragraph (b) of AD 93-08-04.

(j) In the first row of Tables 5 and 6 of paragraph 1.E., "Compliance," of Boeing

Special Attention Service Bulletin 737-53-1268, dated August 25, 2006 ("the service bulletin"), where the service bulletin specifies a compliance time of before 25,000 total airplane flight cycles, this AD requires a compliance time of before the accumulation of 25,000 total flight cycles, or within 2 years after the effective date of this AD, whichever occurs later.

(k) Where Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006, specifies no starting point (e.g., "after the date on the service bulletin") for a grace period, this AD requires compliance within the specified grace period after the effective date of this AD.

(l) Where Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006, specifies to contact Boeing for appropriate action: Before further flight, repair the discrepancy using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

Certain Actions End Certain Requirements of AD 93-08-04

(m) Accomplishment of the internal eddy current and detailed inspections for STA 559 to STA 887 in accordance with paragraph (f) of this AD constitutes compliance with the inspections required by paragraph (a) of AD 93-08-04, as it pertains to Boeing Service Bulletin 737-53-1085, Revision 1, dated May 10, 1990. Accomplishment of the internal eddy current and detailed inspections does not terminate the remaining requirements of AD 93-08-04, as it applies to other service bulletins. Operators are required to continue to inspect and/or modify per the other service bulletins listed in that AD.

Alternative Methods of Compliance (AMOCs)

(n)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6447; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

(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.

Material Incorporated by Reference

(o) You must use Boeing Special Attention Service Bulletin 737-53-1268, dated August 25, 2006, to perform the actions that are

required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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

(2) 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.

(3) 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 30, 2009.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3621 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-1115; Directorate Identifier 2008-NM-134-AD; Amendment 39-15801; AD 2009-02-11]

RIN 2120-AA64

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

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

ACTION: Final rule.

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:

Bombardier Aerospace has completed a system safety review of the CL-600-2C10/CL-600-2D24 aircraft fuel system against the new fuel tank safety standards. * * *

The assessment showed that a single failure due to chafing of fuel system wiring with high power wiring at the centre fuel tank front spar could result in overheating of the fuel boost pump. The assessment also showed that chafing of the high power wiring with the centre fuel tank front spar structures could result in overheating of the fuel tank wall. Overheating of * * * the fuel tank wall could lead to hot surface ignition resulting in a fuel tank explosion.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 2, 2009.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7331; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 23, 2008 (73 FR 63094). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Bombardier Aerospace has completed a system safety review of the CL-600-2C10/CL-600-2D24 aircraft fuel system against the new fuel tank safety standards, introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002-043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525-001 to determine if mandatory corrective action was required.

The assessment showed that a single failure due to chafing of fuel system wiring with high power wiring at the centre fuel tank front spar could result in overheating of the fuel boost pump. The assessment also showed that chafing of the high power wiring with the centre fuel tank front spar structures could result in overheating of the fuel tank wall. Overheating of the fuel boost pump or the fuel tank wall could lead to hot surface ignition resulting in a fuel tank explosion.

To correct the unsafe condition, this directive mandates separation of the high power wiring from the fuel system wiring at the centre fuel tank front spar area and the installation of additional clamping and support for the high power wiring [*i.e.*, modifying the routing and support of electrical wires in the center fuel tank front spar area].

Required actions also include an inspection to determine if pins have a minimum of one thread above the nuts, and a visual inspection for damage of the sealant. Corrective actions include replacing pins and nuts and applying sealant. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

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 required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect about 159 products of U.S. registry. We also estimate that it will take about 102 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$80 per work-hour. Required parts will cost about \$7,646 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 parts. 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 this AD to the U.S. operators to be \$2,513,154, or \$15,806 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 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.

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 the NPRM, 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.

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:

2009-02-11 Bombardier Inc. (Formerly Canadair): Amendment 39-15801.

Docket No. FAA-2008-1115; Directorate Identifier 2008-NM-134-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 2, 2009.

Affected ADs

(b) None.

Applicability

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

(1) Bombardier Model CL-600-2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10003 through 10169 inclusive.

(2) Bombardier Model CL-600-2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 through 15030 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 24: Electrical Power.

Reason

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

Bombardier Aerospace has completed a system safety review of the CL-600-2C10/CL-600-2D24 aircraft fuel system against the new fuel tank safety standards, introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002-043. The identified non-compliances were assessed using Transport Canada Policy Letter No. 525-001 to determine if mandatory corrective action was required.

The assessment showed that a single failure due to chafing of fuel system wiring with high power wiring at the centre fuel tank front spar could result in overheating of the fuel boost pump. The assessment also showed that chafing of the high power wiring with the centre fuel tank front spar structures could result in overheating of the fuel tank wall. Overheating of the fuel boost pump or the fuel tank wall could lead to hot surface ignition resulting in a fuel tank explosion.

To correct the unsafe condition, this directive mandates separation of the high power wiring from the fuel system wiring at the centre fuel tank front spar area and the installation of additional clamping and support for the high power wiring [*i.e.*, modifying the routing and support of electrical wires in the center fuel tank front spar area].

Required actions also include an inspection to determine if pins have a minimum of one thread above the nuts, and a visual inspection for damage of the sealant. Corrective actions include replacing pins and nuts and applying sealant.

Actions and Compliance

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

(1) Within 4,500 flight hours after the effective date of this AD, modify the routing and support of the electrical wires in the center fuel tank front spar area (including an inspection to determine if pins have a minimum of one thread above the nuts, and a visual inspection for damage of the sealant, and applicable corrective actions) in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA-24-012, Revision B, dated July 25, 2007. Do all applicable related investigative and corrective actions before further flight.

(2) Actions done before the effective date of this AD in accordance with Bombardier Service Bulletin 670BA-24-012, dated April 18, 2005; or Revision A, dated October 25, 2006; are acceptable for compliance with the corresponding requirements of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Airframe and Propulsion Branch, ANE-171, New York 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: Rocco Viselli, Aerospace Engineer, Airframe and Propulsion Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7331; fax (516) 794-5531. 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.

(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 Canadian Airworthiness Directive CF-2008-24, dated July 3, 2008, and Bombardier Service Bulletin 670BA-24-012, Revision B, dated July 25, 2007, for related information.

Material Incorporated by Reference

(i) You must use Bombardier Service Bulletin 670BA-24-012, Revision B, dated July 25, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

(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 15, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3364 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2008-0150; Directorate Identifier 2007-NM-325-AD; Amendment 39-15818; AD 2009-04-12]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 767-200, -300, and -400ER Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD),

which applies to certain Boeing Model 767 series airplanes. That AD currently requires a one-time inspection for missing, damaged, or incorrectly installed parts in the separation link assembly on the deployment bar of the emergency escape system on the entry or service door, and installation of new parts if necessary. This new AD requires replacing the separation link assembly on the applicable entry and service doors with an improved separation link assembly, and doing related investigative and corrective actions if necessary; and inspecting for discrepancies of the unloaded spring dimensions in the separation link assembly, and doing corrective actions if necessary. This AD also removes certain airplanes from the applicability. This AD results from reports that entry and service doors did not open fully during deployment of emergency escape slides, and additional reports of missing snap rings. We are issuing this AD to prevent failure of an entry or service door to open fully in the event of an emergency evacuation, which could impede exit from the airplane. This condition could result in injury to passengers or crewmembers.

DATES: This AD becomes effective April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 2, 2009.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Keith Ladderud, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle Aircraft Certification Office,

1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6435; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2001-26-19, amendment 39-12585 (67 FR 265, January 3, 2002). The existing AD applies to certain Boeing Model 767 series airplanes. That supplemental NPRM was published in the **Federal Register** on September 23, 2008 (73 FR 54747). That supplemental NPRM proposed to require replacing the separation link assembly on the applicable entry and service doors with an improved separation link assembly, and doing related investigative and corrective actions if necessary; and inspecting for discrepancies of the unloaded spring dimensions in the separation link assembly, and doing corrective actions if necessary. That supplemental NPRM also proposed to remove certain airplanes from the applicability.

Comments

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

Conclusion

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

Costs of Compliance

There are about 1,225 airplanes of the affected design in the worldwide fleet. This AD affects about 355 airplanes of U.S. registry. The new actions take up to about 6 work hours per airplane, at an average labor rate of \$80 per work hour. Required parts cost up to about \$10,671 per airplane. Based on these figures, the estimated cost of the new actions specified in this AD for U.S. operators is \$3,958,605, or \$11,151 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39-12585 (67 FR 265, January 3, 2002) and by adding the following new airworthiness directive (AD):

2009-04-12 Boeing: Amendment 39-15818. Docket No. FAA-2008-0150; Directorate Identifier 2007-NM-325-AD.

Effective Date

(a) This AD becomes effective April 2, 2009.

Affected ADs

(b) This AD supersedes AD 2001-26-19.

Applicability

(c) This AD applies to Boeing Model 767-200, -300, and -400ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 767-25-0428, dated August 23, 2007.

Unsafe Condition

(d) This AD results from reports that entry and service doors did not open fully during deployment of emergency escape slides, and additional reports of missing snap rings. We are issuing this AD to prevent failure of an entry or service door to open fully in the event of an emergency evacuation, which could impede exit from the airplane. This condition could result in injury to passengers or crewmembers.

Compliance

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

Replacement

(f) Within 48 months after the effective date of this AD, replace the separation link assembly on the deployment bar of the emergency escape system on all the applicable entry and service doors with an improved separation link assembly, and do all the applicable related investigative and corrective actions before further flight, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 767-25-0428, dated August 23, 2007; or Revision 1, dated May 8, 2008. After the effective date of this AD only Boeing Special Attention Service Bulletin 767-25-0428, Revision 1, may be used.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Keith Ladderud, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM-150S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6435; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(h) You must use Boeing Special Attention Service Bulletin 767-25-0428, dated August 23, 2007; or Boeing Special Attention Service Bulletin 767-25-0428, Revision 1, dated May 8, 2008; 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 Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207; telephone 206-544-9990; fax 206-766-5682; e-mail DDCS@boeing.com; Internet <https://www.myboeingfleet.com>.

(3) You may review copies of the service information 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 22, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3263 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0731; Directorate Identifier 2008-NM-058-AD; Amendment 39-15812; AD 2009-04-06]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747-400, 747-400D, 747-400F, 747SR, and 747SP Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to all Boeing Model 747 series airplanes. That AD currently requires repetitive detailed inspections of the aft pressure bulkhead for

indications of "oil cans" and previous oil can repairs, and corrective actions if necessary. An oil can is an area on a pressure dome web that moves when pushed from the forward side. This new AD requires a reduced compliance time for the initial detailed inspection and revises the applicability. This AD results from a report that cracks in oil-canned areas were found during an inspection of the aft pressure bulkhead. We are issuing this AD to detect and correct the propagation of fatigue cracks in the vicinity of oil cans on the web of the aft pressure bulkhead, which could result in rapid decompression of the airplane and overpressurization of the tail section, and consequent loss of control of the airplane.

DATES: This AD becomes effective April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 2, 2009.

On September 13, 2004 (69 FR 48133, August 9, 2004), the Director of the Federal Register approved the incorporation by reference of a certain other publication.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 917-6437; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2004–16–09, amendment 39–13765 (69 FR 48133, August 9, 2004). The existing AD applies to all Boeing Model 747 series airplanes. That NPRM was published in the **Federal Register** on July 2, 2008 (73 FR 37900). That NPRM proposed to require a reduced initial threshold for repetitive detailed inspections of the aft pressure bulkhead for indications of “oil cans” and previous oil can repairs, and corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments that have been received on the NPRM. Two commenters, the Air Line Pilots Association, International (ALPA), and Northwest Airlines, support the NPRM.

Request to Remove Certain Airplanes From Applicability Section

Boeing requests that we remove Model 747–400 airplanes with the following variable numbers from paragraph (c) of this proposed AD: RT631, RT632, RT743, and RT876. Those airplanes have been or are being converted to a 747–400 LCF (large cargo freighter) configuration. The aft pressure bulkhead is removed from these airplanes; therefore, the proposed AD would not apply to those airplanes.

We agree that airplanes that have been converted to a Model 747–400 LCF configuration no longer have an aft pressure bulkhead to inspect. We have revised the applicability section of this AD to exclude airplanes that have been converted. We have not excluded specific variable numbers as suggested by Boeing since more airplanes might be converted to the Model 747–400 LCF configuration in the future.

Explanation of Change to Paragraph (f) of This AD

We have removed the “Service Bulletin Reference” paragraph from this AD. (That paragraph was identified as paragraph (f) in the NPRM.) Instead, we have spelled out the service bulletin citations throughout this AD. We also re-identified the subsequent paragraphs.

Conclusion

We have carefully reviewed the available data, including the comments that have been received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have

determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

There are about 917 airplanes of the affected design in the worldwide fleet. This AD affects about 165 airplanes of U.S. registry.

The actions that are required by AD 2004–16–09 and retained in this AD take about 2 work hours per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the currently required actions to the U.S. operators is \$26,400, or \$160 per airplane, 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 have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

We prepared a regulatory evaluation of the estimated costs to comply with

this AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13765 (69 FR 48133, August 9, 2004) and by adding the following new airworthiness directive (AD):

2009–04–06 Boeing: Amendment 39–15812. Docket No. FAA–2008–0731; Directorate Identifier 2008–NM–058–AD.

Effective Date

(a) This AD becomes effective April 2, 2009.

Affected ADs

(b) This AD supersedes AD 2004–16–09.

Applicability

(c) This AD applies to Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category, except those that have been converted to a Model 747–400 LCF configuration.

Unsafe Condition

(d) This AD results from a report that cracks in oil-canned areas were found during an inspection of the aft pressure bulkhead. We are issuing this AD to detect and correct the propagation of fatigue cracks in the vicinity of oil cans on the web of the aft pressure bulkhead, which could result in rapid decompression of the airplane and overpressurization of the tail section, and consequent loss of control of the airplane.

Compliance

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

Note 1: This AD refers to certain portions of Boeing Alert Service Bulletin 747–53A2482, dated October 3, 2002; and Boeing Alert Service Bulletin 747–53A2482, Revision 1, dated February 21, 2008; for inspections and repair information. In addition, this AD specifies requirements

beyond those included in Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; and Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008. Where the AD and Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; and Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008; differ, the AD prevails.

Requirements of AD 2004-16-09, With Reduced Threshold

Initial and Repetitive Inspections

(f) At the earlier of the times specified in paragraphs (f)(1) and (f)(2) of this AD, perform a detailed inspection of the aft pressure bulkhead for indications of oil cans and previous oil can repairs, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008. After the effective date of this AD, Revision 1 must be used.

(1) Prior to the accumulation of 30,000 total flight cycles, or within 1,000 flight cycles after September 13, 2004 (the effective date of AD 2004-16-09), whichever is later.

(2) Prior to the accumulation of 20,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs later.

Note 2: 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 mirrors, magnifying lenses, etc. may be necessary. Surface cleaning and elaborate procedures may be required."

(g) If no indication of an oil can is found and no indication of a previous oil can repair is found during the detailed inspection required by paragraph (f) of this AD, repeat the detailed inspection thereafter at intervals not to exceed 2,000 flight cycles.

Indication of Oil Can

(h) If any indication of an oil can is found during the detailed inspection required by paragraph (f) or (g) of this AD, before further flight, perform an eddy current inspection of the web around the periphery of the oil can indication for cracks, as shown in Figure 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008. After the effective date of this AD, Revision 1 must be used.

(i) If no crack is found during the eddy current inspection required by paragraph (i) of this AD, do the actions specified in paragraph (i)(1) or (i)(2) of this AD, as applicable.

(1) For the oil can that meets the allowable limits specified in Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008: Repeat the eddy current inspection specified in paragraph (h) of this AD

thereafter at intervals not to exceed 1,000 flight cycles. As an option, repair the oil can in accordance with paragraph (i)(2) of this AD.

(2) For the oil can that does not meet the allowable limits specified in Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008: Before further flight, repair the oil can in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008. After the effective date of this AD, Revision 1 must be used. If the repair eliminates the oil can, accomplishment of this repair constitutes terminating action for the repetitive eddy current inspection requirements of paragraph (i)(1) of this AD for that location only. However, the repetitive detailed inspection required by paragraph (g) of this AD is still required. If any oil can remains after the repair, repeat the eddy current inspection specified in paragraph (h) of this AD thereafter at intervals not to exceed 1,000 flight cycles.

Indication of Previous Oil Can Repairs

(j) If any previous oil can repair is found during the detailed inspection required by paragraph (f) or (g) of this AD, before further flight, do a detailed inspection of the web for cracks and oil cans, as shown in Figure 4 or Figure 5, as applicable, of the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008. After the effective date of this AD, Revision 1 must be used.

(1) If no crack and no oil can are found, repeat the detailed inspection in accordance with paragraph (f) of this AD.

(2) If any oil can is found, before further flight, do the eddy current inspection for cracks, as shown in Figure 3 of Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008. After the effective date of this AD, Revision 1 must be used. If no crack is found during the eddy current inspection required by this paragraph, do the actions specified in paragraph (i)(1) or (i)(2) of this AD, as applicable, at the time specified in the applicable paragraph.

Repair of Cracks

(k) If any crack is found during any inspection required by this AD, before further flight, repair in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008. After the effective date of this AD, Revision 1 must be used. If any crack or damage exceeds limits specified in Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008; and Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-

53A2482, Revision 1, dated February 21, 2008; specifies to contact Boeing for appropriate action: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings; or using a method approved in accordance with the procedures specified in paragraph (m) of this AD. For a repair method to be approved, the approval must specifically reference this AD.

New Requirements of This AD

(l) As of the effective date of this AD, if any crack or damage is found during any inspection required by this AD, and Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008, specifies to contact Boeing for appropriate action (repair data): Before further flight, repair the crack or damage using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 917-6437; fax (425) 917-6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

(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.

(4) AMOCs approved previously in accordance with AD 2004-16-09 are not approved as AMOCs for the corresponding provisions of paragraph (f) of this AD. They are approved as AMOCs for the corresponding provisions of paragraphs (g), (h), (i), (j), (k), and (l) of this AD.

Material Incorporated by Reference

(n) You must use Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002; or Boeing Alert Service Bulletin 747-53A2482, Revision 1, dated February 21, 2008; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747-53A2482,

Revision 1, dated February 21, 2008, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On September 13, 2004 (69 FR 48133, August 9, 2004), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747-53A2482, dated October 3, 2002.

(3) 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>; for a copy of this service information.

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

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

Issued in Renton, Washington, on January 29, 2009.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3272 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-1119; Directorate Identifier 2008-NM-112-AD; Amendment 39-15800; AD 2009-02-10]

RIN 2120-AA64

Airworthiness Directives; Fokker F.28 Mark 0070 and 0100 Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding an existing 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:

Several reports have been received about roll control problems due to frozen moisture on the aileron pulleys that are located in the

LH [left-hand] and RH [right-hand] Main Landing Gear (MLG) wheel bays on the centre wing rear spar, under the wing to fuselage fairings. Investigation revealed that improper sealing of the aerodynamic seals of the Wing-to-Fuselage Fairings can cause rain- or washwater and de-icing fluids to leak onto the affected aileron pulleys. Exposure of the aileron pulleys to the leaked moisture in freezing condition can result in restricted aileron control movement (partly jammed) and/or higher control forces. This condition, if not corrected, could lead to partial loss of control of the aircraft. * * *

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of April 3, 2008 (73 FR 10650, February 28, 2008).

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-1137; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 30, 2008 (73 FR 64571) and proposed to supersede AD 2008-04-22, Amendment 39-15394 (73 FR 10650, February 28, 2008). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Several reports have been received about roll control problems due to frozen moisture on the aileron pulleys that are located in the LH [left-hand] and RH [right-hand] Main Landing Gear (MLG) wheel bays on the centre wing rear spar, under the wing to fuselage fairings. Investigation revealed that improper sealing of the aerodynamic seals of the Wing-to-Fuselage Fairings can cause rain- or washwater and de-icing fluids to leak onto the affected aileron pulleys. Exposure of the

aileron pulleys to the leaked moisture in freezing condition can result in restricted aileron control movement (partly jammed) and/or higher control forces. This condition, if not corrected, could lead to partial loss of control of the aircraft. To address this unsafe condition, Fokker Services originally introduced SBF100-53-101 which was made mandatory through CAA Netherlands (CAA-NL) AD NL-2005-013 [which corresponds to FAA AD 2008-04-22] with a compliance time of 12 months after November 1, 2005.

Following this, new reports of problems due to freezing moisture in the same area have been received. This has prompted Fokker Services to publish SBF100-53-107, which introduces an additional one-time inspection [for deviations] of the aerodynamic seals of the Wing-to-Fuselage Fairings and the application of an improved sealing of the aerodynamic seal by means of a fillet seam between the upper left and right fairings and the fuselage skin.

For the reasons described above, this EASA AD supersedes CAA-NL AD NL-2005-013 and requires an additional one-time inspection [for deviations] and application of improved sealing.

This action retains the inspection in AD 2008-04-22. Doing the additional inspection terminates the requirement to do the inspection required by the existing AD. The additional inspection for deviations includes inspecting for fit between the left-hand and right-hand wing-to-fuselage fairings and the fuselage skin; inspecting for damage to the aerodynamic seal on the fairings; inspecting for fit of the aerodynamic seal to the fuselage; and doing related investigative and corrective actions if necessary. The related investigative actions include inspecting the aerodynamic seal for damage (including wear); inspecting the abrasion resistant coating for damage (including wear); and re-inspecting for fit. The corrective actions include installing a new seal, restoring the protective coating, correcting the position of the fairing, and sealing the gaps between the fairings and the surrounding structure. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

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 required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a Note within the AD.

Costs of Compliance

We estimate that this AD will affect about 7 products of U.S. registry. We also estimate that it will take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$1,680, or \$240 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 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.

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 the NPRM, 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.

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 removing Amendment 39-15394 (73 FR 10650, February 28, 2008) and adding the following new AD:

2009-02-10 Fokker Services B.V.:
Amendment 39-15800. Docket No. FAA-2008-1119; Directorate Identifier 2008-NM-112-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 2, 2009.

Affected ADs

(b) This AD supersedes AD 2008-04-22, Amendment 39-15394.

Applicability

(c) This AD applies to Fokker Model F.28 Mark 0070 and 0100 airplanes, certificated in any category.

Subject

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

Reason

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

Several reports have been received about roll control problems due to frozen moisture on the aileron pulleys that are located in the LH [left-hand] and RH [right-hand] Main Landing Gear (MLG) wheel bays on the centre wing rear spar, under the wing to fuselage fairings. Investigation revealed that improper sealing of the aerodynamic seals of the Wing-to-Fuselage Fairings can cause rain- or washwater and de-icing fluids to leak onto the affected aileron pulleys. Exposure of the aileron pulleys to the leaked moisture in freezing condition can result in restricted aileron control movement (partly jammed) and/or higher control forces. This condition, if not corrected, could lead to partial loss of control of the aircraft. To address this unsafe condition, Fokker Services originally introduced SBF100-53-101 which was made mandatory through CAA Netherlands (CAA-NL) AD NL-2005-013 [which corresponds to FAA AD 2008-04-22] with a compliance time of 12 months after November 1, 2005.

Following this, new reports of problems due to freezing moisture in the same area have been received. This has prompted Fokker Services to publish SBF100-53-107, which introduces an additional one-time inspection [for deviations] of the aerodynamic seals of the Wing-to-Fuselage Fairings and the application of an improved sealing of the aerodynamic seal by means of a fillet seam between the upper left and right fairings and the fuselage skin.

For the reasons described above, this EASA AD supersedes CAA-NL AD NL-2005-013 and requires an additional one-time inspection [for deviations] and application of improved sealing.

This action retains the inspection in AD 2008-04-22. Doing the additional inspection terminates the requirement to do the inspection required by the existing AD. The additional inspection for deviations includes inspecting for fit between the left-hand and right-hand wing-to-fuselage fairings and the fuselage skin; inspecting for damage to the aerodynamic seal on the fairings; inspecting for fit of the aerodynamic seal to the fuselage; and doing related investigative and corrective actions if necessary. The related investigative actions include inspecting the aerodynamic seal for damage (including wear); inspecting the abrasion resistant coating for damage (including wear); and re-inspecting for fit. The corrective actions include installing a new seal, restoring the protective coating, correcting the position of the fairing, and sealing the gaps between the fairings and the surrounding structure.

Restatement of Certain Requirements of AD 2008-04-22

(f) Unless already done: Within 12 months after April 3, 2008 (the effective date of AD 2008-04-22), inspect the wing-to-fuselage fairings for indications of incorrect fit, damage, or wear, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100-53-101, dated September 30, 2005 ("the service bulletin"). Doing the inspection required by paragraph (g) of this AD terminates the actions required by this paragraph.

(1) If no indications of incorrect fit, damage, or wear are found, no further action is required by this paragraph.

(2) If any incorrect fit, damage, or wear is found, before next flight, do related investigative actions and applicable corrective actions in accordance with the Accomplishment Instructions of the service bulletin.

New Requirements of This AD: Actions and Compliance

(g) Unless already done: Within 12 months after the effective date of this AD, inspect for deviations of the aerodynamic seal of the wing-to-fuselage fairings and the fuselage skin, do all applicable related investigative and corrective actions, and apply a fillet seam between the fairings and the fuselage skin, in accordance with the Accomplishment Instructions of Fokker Service Bulletin SBF100-53-107, dated February 26, 2008. Do all applicable related investigative and corrective actions before further flight. Accomplishment of this inspection terminates the actions required by paragraph (f) of this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, ANM-116, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-1137; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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

(i) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2008-0079, dated April 24, 2008; Fokker Service Bulletin SBF100-53-101, dated September 30, 2005; and Fokker Service Bulletin SBF100-53-107, dated February 26, 2008; for related information.

Material Incorporated by Reference

(j) You must use Fokker Service Bulletin SBF100-53-101, dated September 30, 2005; and Fokker Service Bulletin SBF100-53-107, dated February 26, 2008; 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 Fokker Service Bulletin SBF100-53-107, dated February 26, 2008, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of Fokker Service Bulletin SBF100-53-101, dated September 30, 2005, on April 3, 2008 (73 FR 10650, February 28, 2008).

(3) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252-627-350; fax +31 (0)252-627-211; e-mail technicalservices.fokkerservices@stork.com; Internet <http://www.myfokkerfleet.com>.

(4) 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.

(5) 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 15, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3365 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-1141; Directorate Identifier 2008-NM-025-AD; Amendment 39-15799; AD 2009-02-09]

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: Final rule.

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:

During removal of forward and aft wing links, corrosion has been found on the wing links and the wing link attachment bolts in areas that are not readily accessible during the currently required Maintenance Review Board Report (MRBR) zonal inspections or Corrosion Prevention and Control Programme (CPCP) inspections. If left uncorrected, such corrosion could adversely affect the structural integrity of the wing to fuselage joint.

* * * * *

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 2, 2009.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on October 31, 2008 (73 FR 64897). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During removal of forward and aft wing links, corrosion has been found on the wing links and the wing link attachment bolts in areas that are not readily accessible during the currently required Maintenance Review Board Report (MRBR) zonal inspections or Corrosion Prevention and Control Programme (CPCP) inspections. If left uncorrected, such corrosion could adversely affect the structural integrity of the wing to fuselage joint.

For this reason, this Airworthiness Directive (AD) requires repetitive detailed visual inspections at the forward and aft wing links and wing link attachment bolts for

signs of corrosion, replacement of corroded nuts and bolts and repair of any defects.

The MRBR and CPCP will be amended to include the repeat inspections. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

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 required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a Note within the AD.

Costs of Compliance

We estimate that this AD will affect about 1 product of U.S. registry. We also estimate that it will take about 20 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$1,600.

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.

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 the NPRM, 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.

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:

2009-02-09 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39-15799. Docket No. FAA-2008-1141; Directorate Identifier 2008-NM-025-AD.

Effective Date

- (a) This airworthiness directive (AD) becomes effective April 2, 2009.

Affected ADs

- (b) None.

Applicability

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

Subject

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

Reason

(e) The mandatory continuing airworthiness information (MCAI) states: During removal of forward and aft wing links, corrosion has been found on the wing links and the wing link attachment bolts in areas that are not readily accessible during the currently required Maintenance Review Board Report (MRBR) zonal inspections or Corrosion Prevention and Control Programme (CPCP) inspections. If left uncorrected, such corrosion could adversely affect the structural integrity of the wing to fuselage joint.

For this reason, this Airworthiness Directive (AD) requires repetitive detailed visual inspections at the forward and aft wing links and wing link attachment bolts for signs of corrosion, replacement of corroded nuts and bolts and repair of any defects.

The MRBR and CPCP will be amended to include the repeat inspections.

Actions and Compliance

(f) Unless already done, do the following actions: Before accumulating 48 months on the wing link since new, or within 48 months of a wing link being repaired in accordance with a BAE Systems (Operations) Limited or European Aviation Safety Agency (EASA) approved repair scheme, or within 24 months after the effective date of this AD, whichever occurs latest, and thereafter at intervals not to exceed 48 months, inspect the wing links in accordance with paragraph 2.C. of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-203, dated May 7, 2007 ("the service bulletin").

(1) If any corrosion is found on bolts or nuts, replace the affected bolts and nuts with airworthy parts before next flight in accordance with the service bulletin.

(2) If any corrosion to the wing links is found during an inspection, repair before further flight in accordance with a method approved in accordance with EASA (or its delegated agent).

FAA AD Differences

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

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2007-0303, dated December 14, 2007, and BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-203, dated May 7, 2007, for related information.

Material Incorporated by Reference

(i) You must use BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-203, dated May 7, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact BAE Systems Regional Aircraft, 13850 McLearen Road, Herndon, Virginia 20171; telephone 703-736-1080; e-mail raebusiness@baesystems.com; Internet <http://www.baesystems.com/Businesses/RegionalAircraft/index.htm>.

(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 15, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3366 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2007-0254; Directorate Identifier 2007-NM-209-AD; Amendment 39-15795; AD 2009-02-05]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 777 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 777 airplanes. This AD requires installing software upgrades to the airplane information management system (AIMS) located in the flight compartment. This AD results from an investigation that revealed that detrimental effects could occur on certain AIMS software during flight. We are issuing this AD to prevent an unannounced loss of cabin pressure. If an undetected loss of pressure event were to cause an unsafe pressure in the cabin, the flight crew could become incapacitated.

DATES: This AD is effective April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 2, 2009.

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

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the

Docket Office (telephone 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jay Yi, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 917-6494; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 777 airplanes. That NPRM was published in the **Federal Register** on November 28, 2007 (72 FR 67263). That NPRM proposed to require installing software upgrades to the airplane information management system (AIMS) located in the flight compartment.

Comments

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

Request To Incorporate Revised Service Information

Boeing asks that we reference Boeing Service Bulletins 777-31A0119 and 777-31A0120, both Revision 2, both dated June 12, 2008, in the final rule. Boeing Alert Service Bulletin 777-31A0119, Revision 1, dated March 27, 2007; and Boeing Alert Service Bulletin 777-31A0120, Revision 1, dated March 23, 2007; were referenced in the NPRM as the appropriate sources of service information for accomplishing certain actions. Revision 2 of the service bulletins clarifies the procedures for upgrading to the Airplane Information Management System-1 (AIMS-1) Blockpoint 2006 (BP06) operational software.

We have reviewed Revision 2 of these service bulletins and we agree with the commenter, since no additional work is necessary on airplanes changed in accordance with Revision 1 of the referenced service information; Revision 2 of these service bulletins just provides certain clarifications. We have added Revision 2 of these service bulletins to the applicability specified in paragraph (c) of this AD, and to paragraph (f)(1) of this AD, as the appropriate sources of service information for accomplishing the actions specified. In addition, we have added credit for accomplishing the

actions using Revision 1 of these service bulletins to paragraph (g) of this AD.

Request To Update Number of U.S. Airplanes

Boeing also asks that we change the number of U.S. airplanes affected by this AD from 2 to 4 to reflect the production deliveries of airplanes with software requiring an update. Boeing states that there were about 142 AIMS-2 airplanes that were delivered in production on which the affected software design was incorporated. Boeing also recommends adding a statement that about 230 additional airplanes (of which an estimated 70 of those airplanes are of U.S. registry) on which AIMS-1 software has been incorporated will require an update to BP06.

We partially agree with the commenter.

Since the total number of airplanes of the affected design in the worldwide fleet has not increased, we agree to change the number of U.S. airplanes affected by this AD from 2 to 4. The 2 additional U.S.-registered airplanes in need of the software update have been added to the Costs of Compliance section in this AD.

We do not agree to include the statements provided by the commenter, as that language would be added to the Discussion section of the NPRM, which is not carried over to this final rule. We have made no change to the AD in this regard.

Request To Reduce Compliance Time

Air Line Pilots Association, International (ALPA), asks that the 15-month compliance time specified in paragraph (f) of the NPRM be reduced. ALPA states that, given the potentially serious consequences of an undetected loss of pressurization, the number of affected aircraft, and the time required for installation of the software, a shorter compliance time should be imposed.

We do not agree to reduce the compliance time specified in paragraph (f) of this AD. In developing the compliance time for this AD action, we considered not only the safety implications of the identified unsafe condition, but the average utilization rate of the affected fleet and the practical aspects of installing the software during regular maintenance periods. In addition, we considered the manufacturer's recommendation for an appropriate compliance time. After considering all the available information, we determined that the 15-month compliance time represents an appropriate interval of time in which the required actions can be performed in

a timely manner within the affected fleet, while still maintaining an adequate level of safety. We have not changed the AD in this regard.

Conclusion

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

Costs of Compliance

There are about 142 airplanes of the affected design in the worldwide fleet. This AD affects 4 airplanes of U.S. registry. The actions take between 1 and 4 work hours per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is between \$320 and \$1,280, or between \$80 and \$320 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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:

2009-02-05 Boeing: Amendment 39-15795. Docket No. FAA-2007-0254; Directorate Identifier 2007-NM-209-AD.

Effective Date

(a) This airworthiness directive (AD) is effective April 2, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 777-200, -200LR, -300, and -300ER series airplanes, certificated in any category; as identified in Boeing Service Bulletins 777-31A0119 and 777-31A0120, both Revision 2, both dated June 12, 2008.

Unsafe Condition

(d) This AD results from an investigation that revealed that detrimental effects could occur on certain airplane information management system (AIMS) software during flight. We are issuing this AD to prevent an unannounced loss of cabin pressure. If an undetected loss of pressure event were to cause an unsafe pressure in the cabin, the flight crew could become incapacitated.

Compliance

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

Software Installation

(f) Do the actions specified in paragraphs (f)(1) and (f)(2) of this AD at the time specified, as applicable.

(1) Within 15 months after the effective date of this AD: Install the AIMS Blockpoint 2006 (BP06) operational software by doing all the actions in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777-31A0119 or 777-31A0120, both Revision 2, both dated June 12, 2008; as applicable.

(2) Prior to or concurrently with accomplishing the software installation, install the AIMS Blockpoint 2005A (BP05A) software in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777-31-0098, Revision 1, dated May 3, 2007; or Boeing Special Attention Service Bulletin 777-31-0097, Revision 3, dated February 22, 2007; as applicable.

Credit for Actions Done Using Previous Service Information

(g) Actions accomplished before the effective date of this AD in accordance with Boeing Service Bulletin 777-31-0119, dated October 16, 2006, or Boeing Alert Service Bulletin 777-31A0119, Revision 1, dated March 27, 2007; and Boeing Service Bulletin 777-31-0120, dated October 16, 2006, or Boeing Alert Service Bulletin 777-31A0120,

Revision 1, dated March 23, 2007; are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Jay Yi, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 917-6494; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(i) You must use the service information contained in Table 1 of this AD to do the

actions required by this AD, as applicable, unless the AD specifies otherwise.

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

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

(3) You may review copies of the service information 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.

TABLE 1—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision	Date
Boeing Service Bulletin 777-31A0119	2	June 12, 2008.
Boeing Service Bulletin 777-31A0120	2	June 12, 2008.
Boeing Special Attention Service Bulletin 777-31-0097	3	February 22, 2007.
Boeing Special Attention Service Bulletin 777-31-0098	1	May 3, 2007.

Issued in Renton, Washington, on January 13, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3367 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0908; Directorate Identifier 2007-NM-190-AD; Amendment 39-15788; AD 2009-01-09]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to all Airbus Model A310 series airplanes. That AD currently requires repetitive detailed inspections to detect cracks propagating from the

fastener holes that attach the left- and right-hand pick-up angles at frame 40 to the wing lower skin and fuselage panel, and corrective actions if necessary. This new AD revises the intervals for accomplishing the repetitive detailed inspections and provides for an optional terminating modification for the repetitive inspections. This new AD also revises the applicability of the AD to remove certain airplanes. This AD results from mandatory continuing airworthiness information originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are issuing this AD to prevent reduced structural integrity of the airplane due to fatigue damage, and consequent cracking of the pick-up angles at frame 40.

DATES: This AD is effective April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 2, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in

this AD as of February 9, 2001 (66 FR 1031, January 5, 2001).

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM-116,

Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2125; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that supersedes AD 2000-26-14, amendment 39-12064 (66 FR 1031, January 5, 2001). The existing AD applies to all Airbus Model A310 series airplanes. That NPRM was published in the **Federal Register** on August 26, 2008 (73 FR 50250). A correction to that NPRM was published in the **Federal Register** on September 8, 2008 (73 FR 51961). That NPRM proposed to continue to require repetitive detailed inspections to detect cracks propagating from the fastener holes that attach the left- and right-hand pick-up angles at frame 40 to the wing lower skin and fuselage panel, and corrective actions if necessary. That NPRM also proposed to revise the intervals for accomplishing the repetitive detailed inspections and provided for an optional terminating modification for the repetitive inspections. That NPRM also proposed to revise the applicability of the AD to remove certain airplanes.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

This AD affects about 68 Model A310 series airplanes of U.S. registry.

The inspections that are required by AD 2000-26-14 and retained in this AD take about 2 work hours per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the currently required actions is \$10,880, or \$160 per airplane, per inspection cycle.

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing amendment 39-12064 (66 FR 1031, January 5, 2001) and by adding the following new AD:

2009-01-09 Airbus: Amendment 39-15788. Docket No. FAA-2008-0908; Directorate Identifier 2007-NM-190-AD.

Effective Date

(a) This airworthiness directive (AD) is effective April 2, 2009.

Affected ADs

(b) This AD supersedes AD 2000-26-14.

Applicability

(c) This AD applies to Airbus Model A310 series airplanes, certificated in any category, except those airplanes modified in-service in accordance with Airbus Service Bulletin A310-53-2119, dated October 25, 2005; or Revision 01, dated February 27, 2007.

Unsafe Condition

(d) This AD results from mandatory continuing airworthiness information originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are issuing this AD to prevent reduced structural integrity of the airplane due to fatigue damage and consequent cracking of the pick-up angles at frame 40.

Compliance

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

Requirements of AD 2000-26-14

Inspections and Corrective Actions

(f) Perform a detailed inspection to detect cracks propagating from the fastener holes that attach the left- and right-hand pick-up angles at frame 40 to the wing lower skin and fuselage panel, at the time specified in paragraph (g), (h), (i), (j), or (k) of this AD, as applicable. Perform the actions in accordance with Figure 2, Sheet 1, "Synoptic Chart," of Airbus Service Bulletin A310-53A2111, Revision 01, dated June 21, 2000, except as provided by paragraph (l) of this AD.

(1) If no cracking is found during the inspection required by paragraph (f) of this AD, repeat the detailed inspection thereafter at the interval specified in paragraph (f)(1)(i) or (f)(1)(ii) of this AD, as applicable, except as provided by paragraph (n) of this AD.

(i) For Model A310-200 series airplanes: Except as provided by paragraph (i) of this AD, repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles or 2,600 flight hours, whichever occurs first.

(ii) For Model A310-300 series airplanes: Except as provided by paragraphs (i) of this AD, repeat the inspection thereafter at intervals not to exceed 850 flight cycles or 2,800 flight hours, whichever occurs first.

(2) If any cracking is found during the inspection required by paragraph (f) of this AD, prior to further flight, perform applicable corrective actions (including repair (drilling and reaming a crack stop hole in the pick-up angle, performing a Rototest inspection and repetitive detailed inspections at the time specified in the service bulletin, and replacing the pick-up angle with a new angle at the time specified in the service bulletin,

except as provided by paragraph (o) of this AD); or immediate replacement of any cracked angle with a new angle). Perform the actions and repetitive inspections in accordance with Figure 2, Sheet 1, "Synoptic Chart," of Airbus Service Bulletin A310-53A2111, Revision 01, dated June 21, 2000, except as provided by paragraph (l) of this AD.

Note 1: Accomplishment of the actions required by paragraph (f) of this AD in accordance with Airbus Service Bulletin A310-53A2111, dated April 21, 2000, is considered to be acceptable for compliance with the requirements of that paragraph.

Compliance Times

(g) For Model A310-200 series airplanes: Except as provided by paragraphs (i), (j), and (k) of this AD, perform the initial inspection at the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Prior to the accumulation of 7,900 total flight cycles or 23,600 total flight hours, whichever occurs first.

(2) Within 700 flight cycles or 1,200 flight hours after February 9, 2001 (the effective date of AD 2000-26-14), whichever occurs first.

(h) For Model A310-300 series airplanes: Except as provided by paragraphs (i), (j), and (k) of this AD, perform the initial inspection required by paragraph (f) of this AD at the later of the times specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Prior to the accumulation of 6,700 total flight cycles or 24,700 total flight hours, whichever occurs first.

(2) Within 700 flight cycles or 1,200 flight hours after February 9, 2001, whichever occurs first.

(i) For airplanes that have accumulated more than 18,000 total flight cycles or 53,000 total flight hours as of February 9, 2001: Perform the initial inspection required by paragraph (f) of this AD within 350 flight cycles or 600 flight hours after February 9, 2001, whichever occurs first. Repeat the inspection thereafter at intervals not to exceed 350 flight cycles or 600 flight hours, whichever occurs first.

(j) For airplanes having manufacturer's serial number 0162 through 0326 inclusive, on which Airbus Service Bulletin A310-53-2014 has been accomplished prior to February 9, 2001: The initial inspection threshold may be counted from the date of accomplishment of Airbus Service Bulletin A310-53-2014.

(k) For airplanes on which a pick-up angle has been replaced: For that pick-up angle only, the initial inspection threshold may be counted from the date of installation of the new pick-up angle.

Note 2: For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror,

magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

New Requirements of This AD

New Revisions of Service Bulletin

(l) As of the effective date of this AD, use only the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310-53-2111, Revision 03, dated May 21, 2007, to do the inspections and corrective actions required by paragraph (f) of this AD; except where Figure 2 Sheet 2 of Airbus Mandatory Service Bulletin A310-53-2111, Revision 03, dated May 21, 2007, specifies actions for crack length of "<54 mm (2.126 in.)" and "<69 mm (2.716 in.)," this AD requires the corresponding actions for crack lengths less than or equal to those measurements.

(m) Inspections and applicable corrective actions done before the effective date of this AD in accordance with Airbus Mandatory Service Bulletin A310-53-2111, Revision 02, dated October 25, 2005, are acceptable for compliance with the requirements of paragraph (f) of this AD.

Revised Repetitive Intervals for Detailed Inspections

(n) As of the effective date of this AD, repeat the detailed inspections for no crack findings required by paragraph (f)(1)(i), (f)(1)(ii), or (i) of this AD, as applicable, at the applicable times specified in Table 1 of this AD, until the modification specified in paragraph (p) of this AD is done.

TABLE 1—REVISED REPETITIVE INTERVALS FOR CERTAIN DETAILED INSPECTIONS

For model—	Repeat the inspection at the later of the following times—		And thereafter at intervals not to exceed—
(1) A310-200 series airplanes	Within 950 flight cycles or 1,900 flight hours since the last inspection required by paragraph (f)(1)(i) or (i) of this AD, whichever occurs first.	Within 50 flight cycles or 250 flight hours after the effective date of this AD, whichever occurs first.	950 flight cycles or 1,900 flight hours, whichever occurs first.
(2) A310-300 series airplanes (short range).	Within 900 flight cycles or 2,550 flight hours since the last inspection required by paragraph (f)(1)(ii) or (i) of this AD, whichever occurs first.	Within 50 flight cycles or 250 flight hours after the effective date of this AD, whichever occurs first.	900 flight cycles or 2,550 flight hours, whichever occurs first.
(3) A310-300 series airplanes (long range).	Within 800 flight cycles or 4,000 flight hours since the last inspection required by paragraph (f)(1)(ii) or (i) of this AD, whichever occurs first.	Within 50 flight cycles or 250 flight hours after the effective date of this AD, whichever occurs first.	800 flight cycles or 4,000 flight hours, whichever occurs first.

Revised Threshold for Replacing the Pick-Up Angles

(o) As of the effective date of this AD, do the replacement of the pick-up angle required by paragraph (f)(2) of this AD, at the

applicable time specified in Table 2 of this AD.

TABLE 2—REVISED THRESHOLDS FOR REPLACING PICK-UP ANGLES

For model—	Replace at the earlier of the following times—	
(1) A310–200 series airplanes	At the time specified in paragraph (f)(2) of this AD for replacing the pick-up angle.	Within 1,500 flight cycles or 3,000 flight hours since the last detailed inspection, or within 30 days after the effective date of this AD, whichever occurs later.
(2) A310–300 series airplanes (short range)	At the time specified in paragraph (f)(2) of this AD for replacing the pick-up angle.	Within 1,600 flight cycles or 4,600 flight hours since the last detailed inspection, or within 30 days after the effective date of this AD, whichever occurs later.
(3) A310–300 series airplanes (long range)	At the time specified in paragraph (f)(2) of this AD for replacing the pick-up angle.	Within 1,400 flight cycles or 7,200 flight hours since the last detailed inspection, or within 30 days after the effective date of this AD, whichever occurs later.

Optional Terminating Modification

(p) Remove the existing pick-up angles and install a reinforced doubler between frames (FR) FR40 and FR41, and perform applicable related investigative and corrective actions by accomplishing all the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A310–53–2119, Revision 01, dated February 27, 2007; except as provided by paragraph (q) of this AD. Accomplishing these actions ends the repetitive inspections required by this AD.

(q) If any crack is detected and Airbus Service Bulletin A310–53–2119, Revision 01, dated February 27, 2007, specifies to contact Airbus: Before further flight, repair the crack using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the

European Aviation Safety Agency (EASA) (or its delegated agent).

(r) Actions done before the effective date of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–53–2119, dated October 25, 2005, are acceptable for compliance with the corresponding requirements of paragraph (p) of this AD.

Alternative Methods of Compliance (AMOCs)

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

any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Related Information

(t) EASA airworthiness directive 2007–0184, dated July 3, 2007, also addresses the subject of this AD.

Material Incorporated by Reference

(u) You must use the service information identified in Table 3 of this AD to do the actions required by this AD, unless the AD specifies otherwise. If you do the optional terminating modification provided in this AD, you must use Airbus Service Bulletin A310–53–2119, Revision 01, including Appendix 01, dated February 27, 2007, to do the optional terminating modification.

TABLE 3—MATERIAL INCORPORATED BY REFERENCE FOR ACTIONS REQUIRED BY THIS AD

Service bulletin	Revision level	Date
Airbus Service Bulletin A310–53A2111, including Appendix 01	01	June 21, 2000.
Airbus Mandatory Service Bulletin A310–53–2111, including Appendix 01	03	May 21, 2007.

(1) The Director of the Federal Register approved the incorporation by reference of the service information identified in Table 4

of this AD under 5 U.S.C. 552(a) and 1 CFR part 51.

TABLE 4—NEW MATERIAL INCORPORATED BY REFERENCE

Service bulletin	Revision level	Date
Airbus Mandatory Service Bulletin A310–53–2111, including Appendix 01	03	May 21, 2007.
A310–53–2119, including Appendix 01	01	February 27, 2007.

(2) The Director of the Federal Register previously approved the incorporation by reference of Airbus Service Bulletin A310–53A2111, Revision 01, including Appendix 1, dated June 21, 2000, on February 9, 2001 (66 FR 1031, January 5, 2001).

(3) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice

Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: account.airworth-eas@airbus.com; Internet <http://www.airbus.com>.

(4) 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.

(5) 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
December 18, 2008.

Stephen P. Boyd,

*Assistant Manager, Transport Airplane
Directorate, Aircraft Certification Service.*

[FR Doc. E9-3765 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0034; Directorate
Identifier 2007-NM-082-AD; Amendment
39-15797; AD 2009-02-07]

RIN 2120-AA64

Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes

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

ACTION: Final rule; request for
comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to certain British Aerospace (Jetstream) Model 4100 series airplanes. The existing AD currently requires an eddy current conductivity test to measure the conductivity of the upper splice plate of the wing, and related investigative and corrective actions if necessary. This AD revises the applicability to include additional airplanes. This AD results from reports of exfoliation corrosion of the upper splice plate of the wing. We are issuing this AD to detect and correct such corrosion, which could result in reduced structural integrity of the airplane.

DATES: This AD becomes effective
March 13, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications as of March 13, 2009.

On September 23, 1998 (63 FR 44371, August 19, 1998), the Director of the Federal Register approved the incorporation by reference of certain other publications.

We must receive comments on this AD by March 30, 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 BAE Systems Regional Aircraft, 13850 Mclearen Road, Herndon, Virginia 20171; telephone 703-736-1080; *e-mail* raebusiness@baesystems.com; *Internet* <http://www.baesystems.com/Businesses/RegionalAircraft/index.htm>.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The 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:

Discussion

On August 11, 1998, the FAA issued AD 98-17-12, amendment 39-10714 (63 FR 44371, August 19, 1998). That AD applies to certain British Aerospace (Jetstream) Model 4100 series airplanes. That AD requires an eddy current conductivity test to measure the conductivity of the upper splice plate of the wing, and follow-on actions if necessary. That AD resulted from issuance of mandatory continuing airworthiness information from another civil airworthiness authority (British airworthiness directive 005-03-97). The actions specified in AD 98-17-12 are intended to detect and correct corrosion of the upper splice plate of the wing, which could result in reduced structural integrity of the airplane.

Actions Since AD Was Issued

Since we issued AD 98-17-12, the European Aviation Safety Agency (EASA), which is the Technical Agent

for the Member States of the European Community, issued Airworthiness Directive 2007-0056, dated March 1, 2007. The EASA Airworthiness Directive superseded British airworthiness directive 005-03-97 by adding airplanes with construction numbers 41102 through 41104. The EASA advises that those airplanes might also be subject to the identified unsafe condition.

Relevant Service Information

AD 98-17-12 requires accomplishment of British Aerospace Regional Aircraft Service Bulletins J41-57-019, Revision 1, dated November 26, 1997; J41-57-020, dated March 20, 1997; and J41-57-021, dated May 7, 1998. BAE Systems (Operations) Limited has issued Revision 1 of Service Bulletin J41-57-020, dated July 3, 2006; and Revision 4 of Service Bulletin J41-57-021, dated January 16, 2003. BAE Systems (Operations) Limited Service Bulletin J41-57-020, Revision 1, adds the three airplanes referenced above. The revised service bulletins specify no new actions for any affected airplanes.

The EASA mandated the service information and issued airworthiness directive 2007-0056, dated March 1, 2007 (referred to after this as "the MCAI"), to ensure the continued airworthiness of these airplanes in the European Union.

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 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.

Therefore, we are issuing this AD to detect and correct such corrosion, which could result in reduced structural integrity of the airplane. This new AD retains the requirements of the existing AD, and revises the applicability to include additional airplanes.

Explanation of Additional Change to Applicability

We have further revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

Clarification of Applicability

BAE Systems (Operations) Limited Service Bulletin J41-57-019, Revision 1, dated November 26, 1997; BAE Systems (Operations) Limited Service Bulletin J41-57-020, Revision 1, dated July 3,

2006; and BAE Systems (Operations) Limited Service Bulletin J41-57-021, Revision 4, dated January 16, 2003; identify effectivity by “constructor” numbers, and the MCAI identifies its applicability by “construction” numbers. Since these terms are

interchangeable, in this AD we refer to the applicability by “constructor” numbers.

Costs of Compliance

The following table provides the estimated costs to comply with this AD.

ESTIMATED COSTS FOR AD 98-17-12

Action	Work hours	Average labor rate per hour	Cost per airplane	U.S.-registered airplanes	Fleet cost
Test	1	\$80	\$80	7	\$560

The airplanes added to the applicability in this AD are not on the U.S. Register; therefore, they are not directly affected by this AD action. No additional costs are imposed on U.S. operators. However, we consider it necessary to supersede this AD to add these airplanes to ensure that the unsafe condition is addressed if a newly added airplane is imported and placed on the U.S. Register in the future. For those airplanes, the costs listed in the table above would apply.

FAA’s Determination of the Effective Date

No airplane affected by the new requirements of this AD is currently on the U.S. Register. Therefore, providing notice and opportunity for public comment is unnecessary before this AD is issued, and this AD may be made effective in less than 30 days after it is published in the **Federal Register**.

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-2009-0034; Directorate Identifier 2007-NM-082-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 have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the 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 AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39-10714 (63 FR 44371, August 19, 1998) and adding the following new AD:

2009-02-07 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39-15797. Docket No. FAA-2009-0034; Directorate Identifier 2007-NM-082-AD.

Effective Date

(a) This AD becomes effective March 13, 2009.

Affected ADs

(b) This AD supersedes AD 98-17-12.

Applicability

(c) This AD applies to BAE Systems (Operations) Limited Model Jetstream 4101 airplanes, certificated in any category; constructor’s numbers 41004 through 41096 inclusive and 41102 through 41104 inclusive.

Subject

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

Unsafe Condition

(e) This AD results from reports of exfoliation corrosion of the upper splice plate of the wing. We are issuing this AD to detect and correct such corrosion, which could result in 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 98-17-12

Eddy Current Conductivity Test

(g) For airplanes with constructor's numbers 41004 through 41096 inclusive: Within 6 months after September 23, 1998 (the effective date of AD 98-17-12), perform an eddy current conductivity test to measure the conductivity of the upper splice plate of the wing, in accordance with British Aerospace Regional Aircraft Service Bulletin J41-57-019, Revision 1, dated November 26, 1997. If the conductivity measurement is greater than or equal to 35.0% of the

International Aluminum and Copper Standards (IACS), no further action is required by this AD.

(h) During the inspection required by paragraph (g) of this AD, if the conductivity measurement is less than 35.0% of the IACS: Prior to further flight, use a borescope to perform a detailed visual inspection to detect corrosion along the full length of the upper splice plate of the wing, in accordance with British Aerospace Regional Aircraft Service Bulletin J41-57-020, dated March 20, 1997; or BAE Systems (Operations) Limited Service Bulletin J41-57-020, Revision 1, dated July 3, 2006. Thereafter, repeat the inspection at intervals not to exceed 1 year.

(1) During any inspection required by paragraph (g) of this AD, if any corrosion is detected that is within the allowable limits specified in British Aerospace Regional Aircraft Service Bulletin J41-57-020, dated

March 20, 1997; or BAE Systems (Operations) Limited Service Bulletin J41-57-020, Revision 1, dated July 3, 2006: Accomplish the actions required by paragraphs (h)(1)(i) and (h)(1)(ii) of this AD, at the times specified in those paragraphs.

(i) Prior to further flight, repair the upper splice plate of the wing in accordance with Appendix 2 of British Aerospace Regional Aircraft Service Bulletin J41-57-020, dated March 20, 1997; or BAE Systems (Operations) Limited Service Bulletin J41-57-020, Revision 1, dated July 3, 2006. And

(ii) Within 3 years after the detection of corrosion, replace the upper splice plate of the wing with a new upper splice plate in accordance with the applicable service bulletin identified in Table 1 of this AD. Such replacement constitutes terminating action for the requirements of this AD.

TABLE 1—SERVICE BULLETINS

Service bulletin	Revision level	Date
British Aerospace Regional Aircraft Service Bulletin J41-57-020	Original	March 20, 1997.
BAE Systems (Operations) Limited Service Bulletin J41-57-020	1	July 3, 2006.
British Aerospace Regional Aircraft Service Bulletin J41-57-021	Original	May 7, 1998.
BAE Systems (Operations) Limited Service Bulletin J41-57-021	4	January 16, 2003.

(2) During any inspection required by paragraph (h) of this AD, if any corrosion is detected that is outside the allowable limits specified in British Aerospace Regional Aircraft Service Bulletin J41-57-020, dated March 20, 1997; or BAE Systems (Operations) Limited Service Bulletin J41-57-020, Revision 1, dated July 3, 2006: Prior to further flight, repair in accordance with a

method approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate.

New Requirements of This AD

Replacement According to Previous Issue of Service Bulletin

(i) Replacement of the upper splice plate is also acceptable for compliance with the

requirements of paragraph (h)(1)(ii) of this AD, if done before the effective date of this AD in accordance with any service bulletin identified in Table 2 of this AD.

TABLE 2—SERVICE BULLETINS

BAE Systems (operations) limited service bulletin	Revision level	Date
J41-57-021	1	May 26, 2000.
J41-57-021	2	November 2, 2001.
J41-57-021	3	August 9, 2002.

(j) For airplanes with construction numbers 41102 through 41104 inclusive: Do the actions specified in paragraph (g) of this AD within 6 months after the effective date of this AD, in accordance with British Aerospace Regional Aircraft Service Bulletin J41-57-019, Revision 1, dated November 26, 1997. And do all applicable actions at the applicable times as specified in paragraph (h) of this AD.

Alternative Methods of Compliance (AMOCs)

(k) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs

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

Related Information

(l) EASA Airworthiness Directive 2007-0056, dated March 1, 2007, also addresses the subject of this AD.

Material Incorporated by Reference

(m) You must use the applicable service bulletins identified in Table 4 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. BAE Systems (Operations) Limited Service Bulletin J41-57-021, Revision 4, dated January 16, 2003, has the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 4, 79-83	4	January 16, 2003.
2, 3, 5-78	3	August 9, 2002.

(1) The Director of the Federal Register approved the incorporation by reference of BAE Systems (Operations) Limited Service Bulletin J41-57-020, Revision 1, dated July 3, 2006; and BAE Systems (Operations) Limited Service Bulletin J41-57-021,

Revision 4, dated January 16, 2003; in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On September 23, 1998 (63 FR 44371, August 19, 1998), the Director of the Federal Register approved the incorporation by

reference of British Aerospace Regional Aircraft Service Bulletins identified in Table 3 of this AD.

TABLE 3—MATERIAL PREVIOUSLY INCORPORATED BY REFERENCE

Service bulletin	Revision level	Date
J41-57-019	1	November 26, 1997.
J41-57-020	Original	March 20, 1997.
J41-57-021	Original	May 7, 1998.

(3) For service information identified in this AD, contact BAE Systems Regional Aircraft, 13850 Mclearen Road, Herndon, Virginia 20171; telephone 703-736-1080; e-mail raebusiness@baesystems.com; Internet <http://www.baesystems.com/Businesses/RegionalAircraft/index.htm>.

(4) You may review copies of the service information 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.

(5) 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.

TABLE 4—ALL MATERIAL INCORPORATED BY REFERENCE

Service bulletin	Revision level	Date
BAE Systems (Operations) Limited Service Bulletin J41-57-020	1	July 3, 2006.
BAE Systems (Operations) Limited Service Bulletin J41-57-021	4	January 16, 2003.
British Aerospace Regional Aircraft Service Bulletin J41-57-019	1	November 26, 1997.
British Aerospace Regional Aircraft Service Bulletin J41-57-020	Original	March 20, 1997.
British Aerospace Regional Aircraft Service Bulletin J41-57-021	Original	May 7, 1998.

Issued in Renton, Washington, on January 9, 2009.

Stephen P. Boyd,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3782 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-24145; Directorate Identifier 2006-NE-06-AD; Amendment 39-15823; AD 2009-04-17]

RIN 2120-AA64

Airworthiness Directives; General Electric Company CF6-45 and CF6-50 Series Turbofan Engines

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for General Electric Company (GE) CF6-45 and CF6-50 series turbofan engines. This AD requires replacing certain forward and aft centerbodies of the long fixed core exhaust nozzle (LFCEN) assembly.

This AD results from the engine manufacturer issuing new service information. We are issuing this AD to prevent the forward and aft centerbody of the LFCEN assembly from separating due to high imbalance engine conditions, leading to damage to the airplane.

DATES: This AD becomes effective April 2, 2009. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of April 2, 2009.

ADDRESSES: You can get the service information identified in this AD from General Electric Company via GE-Aviation, Attn: Distributions, 111 Merchant St., Room 230, Cincinnati, Ohio 45246, telephone (513) 552-3272; fax (513) 552-3329.

The Docket Operations office is located at the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: robert.green@faa.gov; telephone (781) 238-7754; fax (781) 238-7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to (GE) CF6-45 and CF6-50 series turbofan engines. We published the proposed AD in the **Federal Register** on January 2, 2008, (73 FR 77). That action proposed to require replacing the centerbodies with centerbodies that were modified using the Accomplishment Instructions, Section 3, of GE SB No. CF6-50 S/B 78-0244, dated July 30, 2007, within 42 months of the effective date of the proposed AD.

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 provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Comments

We provided the public the opportunity to participate in the

development of this AD. We have considered the comments received.

Requests To Allow Credit for Rework Performed Using GE Service Bulletin CF6-50 S/B 78-0242

Two commenters, Atlas Air and Evergreen International Airlines, asked us to allow credit for rework performed using GE Service Bulletin (SB) CF6-50 S/B 78-0242, dated September 26, 2005. The commenters state the original issue and later revision of GE SB CF6-50 S/B 78-0244 state in Section 1, Planning Information, that forward and aft centerbody assemblies reworked in accordance with GE SB CF6-50 S/B 78-0242, meet the requirement of the GE SB.

We agree. The rework defined by GE SB CF6-50 S/B 78-0242 meets the requirements of GE SB CF6-50 S/B 78-0244, Revision 1. Also, there might be forward and aft centerbody assemblies that have been reworked using the original issue of GE SB CF6-50 S/B 78-0244, which is acceptable. We have added references to GE SB CF6-50 S/B 78-0244, dated July 30, 2007, and GE SB CF6-50 S/B 78-0242, dated September 26, 2005, to paragraph (f) of this AD.

Request To Add GE SB CF6-50 S/B 78-0244, Revision 1, Dated March 13, 2008 to the AD Compliance Section

Two commenters, GE Aviation and Boeing Commercial Airplane Services, ask us to reference SB CF6-50 S/B 78-0244, Revision 1, dated March 13, 2008, in the compliance section of the proposed AD. The commenters state that operators cannot get the rivets identified in Section 2, Material Information, paragraph A. (1) of the original issue of GE SB CF6-50 S/B 78-0244. Those rivets are part numbers (P/Ns) NAS1398M3-2 and NAS1398M3-3. GE identified alternative rivets P/Ns NAS13984-2 and NAS13984-3 in SB CF6-50 S/B 78-0244, Revision 1, dated March 13, 2008.

We agree. We have changed GE SB CF6-50 S/B 78-0244, dated July 30, 2007, to GE SB CF6-50 S/B 78-0244, Revision 1, dated March 13, 2008, in the regulatory text.

Recommendation To Use Rivet P/N NAS9307 as an Alternative to P/Ns NAS13984-2 and NAS13984-3

One commenter, Nordam Prism, recommends we allow using alternative rivets, P/N NAS9307, for installing the forward centerbody forward doubler. The commenter suggests the P/N NAS9307 rivet is more reliable than the specified P/N NAS1398 rivet. The commenter states the P/N NAS9307

rivet locking collar is designed as a positive security device that forms the rivet sleeve into the locking stem, thereby promoting joint integrity while in service. The commenter states the P/N NAS1398 rivet doesn't offer this feature, and the lock has a tendency to release in service. The commenter further notes the P/N NAS9307 rivet design provides a more consistent installation with visual confirmation of an acceptable mechanical fit. Previous experience with P/N NAS1398 rivets would often result in inspectors not accepting rivet installation due to misplaced locking collars. The resulting removal increased the tendency for an oversized rivet hole. In this particular GE SB CF6-50 S/B 78-0244 application, there exists no tolerance for oversizing the hole and installing a larger rivet. The first article assembly effectively used the P/N NAS9307 rivet in this application.

We don't agree. GE states the P/N NAS9307 rivet doesn't offer a 0.094-inch diameter option that is consistent with the existing repair. The proposed P/N NAS9307M-4-0X rivet size (0.125-inch diameter) would work in this configuration, but the repair area might not accommodate the next higher, P/N NAS9307M-5-0X rivet size (0.165-inch diameter), precluding oversized rivet holes or future repairs. GE further notes the spindle material of the P/N NAS9307 rivet might be made of PH15-7 corrosion resistant steel. The P/N PH15-7 material doesn't offer the same corrosion resistance in an exhaust environment as the A386 spindle material used in the P/N NAS1398 rivets. We didn't change the Regulatory text.

Request To Remove the KC-10A Airplane From the "Used on" Section of Paragraph (c) of the Proposed AD

One commenter, Boeing Commercial Airplane Services, asks us to remove the reference to the KC-10A airplane from the "used on but not limited to" sentence in paragraph (c) of the proposed AD. Boeing states the KC-10A doesn't use the LFCEN configuration.

We agree. We supply the "used on, but not limited to" list of airplanes in paragraph (c) of the proposed AD to aid operators and users in identifying if their airplane might use the affected engines. Since the list is for information only, we are not expanding the scope of the proposed AD by adding or removing any airframe. We removed the KC-10A from the "installed on but not limited to" sentence in paragraph (c) of this AD.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect 379 GE CF6-45 and CF6-50 series turbofan engines installed on airplanes of U.S. registry. We also estimate that it will take about 44 work hours per engine to perform the actions, and that the average labor rate is \$80 per work hour. Required parts would cost about \$11,000 per engine. Based on these figures, we estimate the total cost of this AD to U.S. operators to be \$2,802,360.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration 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:

2009-04-17 General Electric Company:
Amendment 39-15823. Docket No. FAA-2006-24145; Directorate Identifier 2006-NE-06-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 2, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company (GE) CF6-45A, CF6-45A2, CF6-50A, CF6-50C, CF6-50CA, CF6-50C1, CF6-50C2, CF6-50C2B, CF6-50C2D, CF6-50E, CF6-50E1, CF6-50E2, and CF6-50E2B series turbofan engines with a long fixed core exhaust nozzle (LFCEN) assembly forward centerbody, part number (P/N) 1313M55G01 or G02, P/N 9076M28G09 or G10, and aft centerbody P/N 1313M56G01 or 9076M46G05, installed. These engines are installed on, but not limited to, Airbus A300 series, Boeing 747 series, McDonnell Douglas DC-10 series, and DC-10-30F (KDC-10) airplanes.

Unsafe Condition

(d) This AD results from reports of separation of LFCEN assembly forward and aft centerbodies due to high imbalance engine conditions. This AD results from the GE issuing new service information. We are issuing this AD to prevent the forward and aft centerbody of the LFCEN assembly from separating due to high imbalance engine conditions, leading to damage to the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within 42 months after the effective date of this AD, unless the actions have already been done.

(f) Replace the forward centerbody, P/N 1313M55G01 or G02, P/N 9076M28G09 or G10, and aft centerbody, P/N 1313M56G01 or 9076M46G05 with a forward and aft centerbody that have been modified using with the Accomplishment Instructions, Section 3, of GE Service Bulletin No. CF6-50 S/B 78-0244, Revision 1, dated March 13, 2008, CF6-50 S/B 78-0244, dated July 30, 2007, or CF6-50 S/B 78-0242, dated September 26, 2005.

Alternative Methods of Compliance

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

Related Information

(h) Contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: robert.green@faa.gov; telephone (781) 238-7754; fax (781) 238-7199, for more information about this AD.

Material Incorporated by Reference

(i) None.

Issued in Burlington, Massachusetts, on February 12, 2009.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E9-3615 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-1006; Directorate Identifier 2008-NM-110-AD; Amendment 39-15822; AD 2009-04-16]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-200B, 747-200C, 747-200F, 747-300, 747SR, and 747SP Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Boeing Model 747-100, 747-100B, 747-200B, 747-200C, 747-200F, 747-300, 747SR, and 747SP series airplanes. That AD currently requires an inspection to determine if acceptable external skin doublers are installed at the stringer 6 (S-6) lap splices, between station (STA) 340 and STA 400. For airplanes without the acceptable external skin doublers, the existing AD also requires repetitive

related investigative actions and corrective actions if necessary. The existing AD also provides an optional terminating modification for the repetitive related investigative actions. This new AD mandates the optional terminating modification. This AD results from a report of cracked fastener holes at the right S-6 lap splice between STA 340 and STA 380. We are issuing this AD to prevent cracking in the fuselage skin, which could result in rapid decompression and loss of structural integrity of the airplane.

DATES: This AD becomes effective April 2, 2009.

On May 20, 2008 (73 FR 29042, May 20, 2008), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 747-53A2748, dated May 9, 2008.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Ivan Li, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6437; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2008-10-15, amendment 39-15522 (73 FR 29042, May 20, 2008). The existing AD applies to certain Boeing Model 747-100, 747-100B, 747-200B, 747-200C, 747-200F, 747-300, 747SR, and 747SP series airplanes. That NPRM was published in the **Federal**

Register on September 23, 2008 (73 FR 54755). That NPRM proposed to continue to require an inspection to determine if acceptable external skin doublers are installed at the stringer 6 (S-6) lap splices, between station (STA) 340 and STA 400. For airplanes without the acceptable external skin doublers, that NPRM also proposed to continue to require repetitive related investigative actions and corrective actions if necessary. That NPRM also proposed to require a previously optional terminating modification for the repetitive related investigative actions.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the single comment that has been received on the NPRM. The commenter, Boeing, concurs with the NPRM.

Conclusion

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

Costs of Compliance

The inspection for acceptable external skin doublers that is required by AD 2008-10-15 and retained in this AD takes about 2 work hours per airplane, at an average labor rate of \$80 per work hour. Based on these figures, the estimated cost of the inspection for U.S. operators is \$27,840, or \$160 per airplane.

The cost for the terminating action depends on the results of the inspections. Therefore, we cannot calculate those costs because we do not know what doubler conditions operators will find.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39-15522 (73 FR 29042, May 20, 2008) and by adding the following new airworthiness directive (AD):

2009-04-16 Boeing: Amendment 39-15822. Docket No. FAA-2008-1006; Directorate Identifier 2008-NM-110-AD.

Effective Date

(a) This AD becomes effective April 2, 2009.

Affected ADs

(b) This AD supersedes AD 2008-10-15.

Applicability

(c) This AD applies to Boeing Model 747-100, 747-100B, 747-200B, 747-200C, 747-200F, 747-300, 747SR, and 747SP series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747-53A2748, dated May 9, 2008.

Unsafe Condition

(d) This AD results from a report of cracked fastener holes at the right stringer 6 (S-6) lap splice between station (STA) 340 and STA 380. We are issuing this AD to prevent cracking in the fuselage skin, which could result in rapid decompression and loss of structural integrity of the airplane.

Compliance

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

Requirements of AD 2008-10-15

Service Bulletin Reference Paragraph

(f) The term "alert service bulletin," as used in this AD, means the Accomplishment Instructions of Boeing Alert Service Bulletin 747-53A2748, dated May 9, 2008.

Inspection for Acceptable External Skin Doublers

(g) For airplanes identified as Group 1, Configuration 2, in Boeing Alert Service Bulletin 747-53A2748, dated May 9, 2008: At the latest of the times specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, do an external general visual inspection to determine if acceptable external skin doublers are installed at the left- and right-side S-6 lap splices, in accordance with Part 1 of the alert service bulletin.

(1) Prior to the accumulation of 10,000 total flight cycles.

(2) Within 8,000 flight cycles after a modification was done in accordance with Boeing Service Bulletin 747-53-2253.

(3) Within 15 days or 100 flight cycles after May 20, 2008 (the effective date of AD 2008-10-15), whichever occurs first.

Acceptable External Skin Doublers Found at Both Sides

(h) If, during the inspection required by paragraph (g) of this AD, acceptable external skin doublers in accordance with the alert service bulletin are found installed at both the left- and right-side S-6 lap splices, no further work is required by this AD.

Acceptable External Skin Doublers Not Found—Repetitive Related Investigative Actions and Corrective Actions

(i) If, during the inspection required by paragraph (g) of this AD, acceptable external skin doublers in accordance with alert service bulletin are not found installed at either the left- or right-side S-6 lap splice: Before further flight, do all applicable related investigative and corrective actions by doing all actions specified in Part 2 of the alert service bulletin. Repeat the applicable related investigative actions thereafter at intervals not to exceed 300 flight cycles until the modification specified in paragraph (j) of this AD is done.

New Requirement of This AD**Terminating Modification**

(j) If, during the inspection required by paragraph (g) of this AD, acceptable external skin doublers as specified in the alert service bulletin are not found installed at either the left- or right-side S-6 lap splice: Within 3,000 flight cycles after doing the initial related investigative actions in paragraph (i) of this AD, or within 300 flight cycles after the effective date of this AD, whichever occurs later, install acceptable external skin doublers at both the left- and right-side S-6 lap splices, as applicable. The installation of the acceptable skin doublers is required on the side of the airplane that does not have the acceptable doublers already. The installation includes doing an open-hole high-frequency eddy current (HFEC) inspection of the skin for cracking, and trimming out cracking as applicable. Do all actions in accordance with the alert service bulletin. Doing this installation terminates the repetitive related investigative actions required by paragraph (i) of this AD.

Note 1: The alert service bulletin refers to Boeing Service Bulletins 747-53-2253, Revision 3, dated March 24, 1994; and 747-53-2272, Revision 18, dated May 16, 2002; as additional sources of service information for accomplishment of the modification (installation of acceptable external skin doublers).

Note 2: AD 90-06-06, amendment 39-6490, requires, among other actions, a modification as specified in Boeing Service Bulletin 747-53-2253, dated December 14, 1984.

Note 3: AD 90-23-14, amendment 39-6801, requires inspections as specified in Boeing Service Bulletin 747-53-2253, Revision 2, dated March 29, 1990.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Ivan Li, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6437; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

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

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

Material Incorporated by Reference

(l) You must use Boeing Alert Service Bulletin 747-53A2748, dated May 9, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register previously approved the incorporation by reference of Boeing Alert Service Bulletin 747-53A2748, dated May 9, 2008, on May 20, 2008 (73 FR 29042, May 20, 2008).

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

(3) You may review copies of the service information 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 February 2, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-3616 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2008-0861; Airspace Docket No. 08-AWP-8]

RIN 2120-AA66

Amendment of Class D Airspace; Anderson AFB, GU; Guam International Airport, GU; and Saipan International Airports, CQ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal descriptions for Anderson AFB, and the Guam and Saipan International Airports. The Guam Air Route Traffic Control Center personnel conducted a review of their airspace and determined that current airspace descriptions needed to be updated. These are editorial revisions to reflect name changes and to update coordinates of the facilities. The changes will not affect the current area boundaries, altitudes, or the times of designation.

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: 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:**Background**

During an airspace review conducted Guam ARTCC personnel it was determined that the Class D airspace descriptions in their area of responsibility were outdated and required revision. They are editorial revisions to reflect name changes and to update airport reference point coordinates. This change does not affect the current area boundaries, altitudes, or the times of designation.

Class D Airspace descriptions are published in paragraph 5000 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 Class D Airspace descriptions 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 revising the description of Guam Island Anderson AFB, and Guam International Airport, by inserting the city name into each Class D airspace description. The Saipan Island Class D airspace description is amended by removing reference to the Saipan RBN and to the Airport Facility Directory. Additionally, this action updates the airport reference points.

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 the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as they are editorial revisions to reflect name changes and updates the coordinates of the facilities.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with 311d., FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures." 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 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 the FAA Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective October 31, 2008 is amended as follows:

Paragraph 5000 Class D airspace areas.

* * * * *

AWP GU D Guam Island, GU [Remove]

Guam Island Andersen AFB, GU

* * * * *

AWP GU D Andersen AFB, GU [New]

Yigo, Andersen AFB, GU

(Lat. 13°35'02" N., long. 144°55'48" E.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.3-mile radius of Andersen AFB.

* * * * *

AWP GU D Guam International Airport, GU [Remove]

Guam International Airport, GU

* * * * *

AWP GU D Guam International Airport, GU [New]

Tiyan, Guam International Airport, GU

(Lat. 13°29'02" N., long. 144°47'50" E.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.3-mile radius of Guam International Airport.

* * * * *

AWP CQ D Saipan Island, CQ [Amend]

Saipan International Airport, CQ

(Lat. 15°07'08" N., long. 145°43'46" E.)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4.3-mile radius of Saipan International Airport.

* * * * *

Issued in Washington, DC, February 18, 2009.

Paul Gallant,

Acting Manager, Airspace and Rules Group.

[FR Doc. E9–3904 Filed 2–25–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–1334; Airspace Docket No. 08–ASO–21]

Amendment of Class E Airspace; Roanoke Rapids, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace at Roanoke Rapids, NC, to accommodate Standard Instrument Approach Procedures (SIAPs) at Halifax County Airport. The controlled airspace previously associated with this airport was removed in anticipation of the airport's scheduled closure. The closure of Halifax County Airport has been delayed because the opening of its replacement, Halifax-Northampton Regional Airport, has been delayed. Controlled airspace is necessary for the

safety and management of SIAPs and for Instrument Flight Rule (IFR) operations to the airport.

DATES: Effective: 0901 UTC, February 26, 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:

Daryl Daniels, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5581.

SUPPLEMENTARY INFORMATION:

History

On July 18, 2008, the FAA published a final rule in the **Federal Register** removing Class E airspace at Halifax County Airport, Roanoke Rapids, NC, and establishing Class E airspace at the new Halifax-Northampton Regional Airport (73 FR 41255). The FAA has learned that the effective date was premature causing the removal of controlled airspace that is needed to support IFR operations at Halifax County Airport. This action restores that controlled Class E airspace required for IFR operations at Halifax County Airport. The Class E airspace that was established for the Halifax-Northampton Regional Airport remains in effect, although the airport is not expected to become operational until around March 12, 2009. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in 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 designations listed in this document will be published subsequently in the Order.

In consideration of the need to provide and resume immediate IFR operations at Halifax County Airport until its closure, to avoid confusion on the part of the pilots because of the dates of Chart publications in the vicinity of Roanoke Rapids, NC, and to be consistent with the FAA's safety mandate when an unsafe condition exists, the FAA finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest, and finds good cause pursuant to 5 U.S.C. 553(d), for making this imperative amendment effective in less than 30 days to promote the safe and efficient handling of air traffic in the area.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E airspace at Roanoke Rapids, NC, to provide additional controlled airspace required to support the SIAPs for Halifax County Airport, Roanoke Rapids, NC.

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. Since 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 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 provides Class E airspace at Halifax County Airport, Roanoke Rapids, NC.

Lists 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 part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

ASO NC E5 Roanoke Rapids, NC [AMENDED]

Halifax-Northampton Regional Airport, NC
(Lat. 36°19’47” N., long. 77°38’07” W.)

Halifax County Airport, NC
(Lat. 36°26’23” N., long. 77°42’34” W.)

That airspace extending upward from 700 feet above the surface of the Earth within a 6.5-mile radius of Halifax-Northampton Regional Airport and that airspace within a 7.0-mile radius of Halifax County Airport.

* * * * *

Issued in College Park, Georgia, on February 19, 2009.

Barry A. Knight,

*Acting Manager, Operations Support Group,
Eastern Service Center, Air Traffic
Organization.*

[FR Doc. E9–4074 Filed 2–25–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2008–0897; Airspace
Docket No. 08–AWP–9]

RIN 2120–AA66

Amendment of Class E Airspace; Guam Island, GU, and Saipan Island, CQ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes, renames and expands the Class E airspace areas serving Guam International Airport, Anderson AFB and Saipan Island. Additionally, this action will revoke the Saipan Island Class E surface area since it is no longer required, and expands other controlled airspace areas to protect aircraft conducting instrument approaches to Saipan International Airport. The FAA is taking this action to enhance the safety and management of aircraft operations in the vicinity of the Northern Mariana Islands.

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: 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:**Background**

On December 10, 2008, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E Airspace in Guam and Saipan Island (73 FR 75011). 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.

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 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the Class E airspace at Guam and Saipan Islands. This action will revoke the Saipan Island Class E surface area since it is no longer required for operations and expands controlled airspace to protect aircraft conducting instrument approaches to Saipan International airport. In addition this action will remove, rename and expand the Class E airspace areas serving Guam International Airport, Anderson AFB, and renames Guam Island Class E airspace to Northern Mariana Islands Class E airspace. Controlled airspace is necessary to accommodate Instrument Flight Rules aircraft operations and enhances the safety and management of aircraft operations in the Northern Mariana Islands.

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 the 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 establishes controlled airspace at Guam and Saipan Islands.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with 311a., FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures." 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 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 the FAA Order 7400.9S Airspace Designations and Reporting

Points, signed October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AWP CQ E2 Saipan Island, CQ [Removed]

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Surface Area.

* * * * *

AWP CQ E4 Saipan Island, CQ [Amended]

Saipan International Airport, CQ (Lat. 15°07'08" N., long. 145°43'46" E.)

Saipan NDB (Lat. 15°06'41" N., long. 145°42'37" E.)

That airspace extending upward from the surface within a 4.3-mile radius of Saipan International Airport and within 3-miles north and 2-miles south of the Saipan NDB 248° bearing, extending from the 4.3-mile radius to 8.5-miles southwest of the NDB and within 3-miles each side of the Saipan NDB 068° bearing extending from the 4.3-mile radius to 9-miles northeast of the NDB.

* * * * *

AWP GU E4 Guam Island, Agana NAS, GU [Removed]

* * * * *

AWP GU E4 Guam International Airport, GU [New]

Tiyan, Guam International Airport, GU (Lat. 13°29'02" N., long. 144°47'50" E.)

Nimitz VORTAC (Lat. 13°27'16" N., long. 144°44'00" E.)

That airspace extending upward from the surface within 2-miles each side of the Nimitz VORTAC 245° radial, extending from the 4.3-mile radius of Guam International Airport to 5 miles southwest of the Nimitz VORTAC.

* * * * *

AWP GU E4 Guam Island, GU [Removed]

* * * * *

AWP GU E4 Anderson AFB, GU [New]

Yigo, Andersen AFB, GU (Lat. 13°35'02" N., long. 144°55'48" E.)

Tiyan, Guam International Airport, GU (Lat. 13°29'02" N., long. 144°47'50" E.)

That airspace extending upward from the surface within 3-miles each side of the 065° bearing from Andersen AFB extending from the 4.3-mile radius of Andersen AFB to 8.5-miles northeast and that airspace within 2-miles north of and 3.5-miles south of the 245° bearing from Andersen AFB, extending from the 4.3-mile radius of the airport to 7.5-miles southwest of Andersen AFB, excluding the Guam International Airport Class D airspace area.

* * * * *

AWP CQ E4 Saipan Island, CQ [Amended]

Saipan International Airport, CQ (Lat. 15°07'08" N., long. 145°43'46" E.)

Saipan NDB

(Lat. 15°06'41" N., long. 145°42'37" E.)

That airspace extending upward from the surface within a 4.3-mile radius of Saipan International Airport and within 3-miles north and 2-miles south of the Saipan NDB 248° bearing, extending from the 4.3-mile radius to 8.5-miles southwest of the NDB and within 3-miles each side of the Saipan NDB 068° bearing extending from the 4.3-mile radius to 9-miles northeast of the NDB.

* * * * *

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

* * * * *

AWP GU E5 Guam Island, GU [Removed]

* * * * *

AWP E5 Northern Mariana Islands [New]

Yigo, Andersen AFB, GU (Lat. 13°35'02" N., long. 144°55'48" E.)

Rota International Airport, CQ (Lat. 14°10'28" N., long. 145°14'28" E.)

Saipan International Airport, CQ (Lat. 15°07'08" N., long. 145°43'46" E.)

Tinian International Airport, CQ (Lat. 14°59'57" N., long. 145°37'10" E.)

Nimitz VORTAC (Lat. 13°27'16" N., long. 144°44'00" E.)

Saipan NDB (Lat. 15°06'41" N., long. 145°42'37" E.)

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Andersen AFB and within 12-miles each side of the 245° bearing from Andersen AFB extending from the 12-mile radius to 35 miles southwest of Andersen AFB and within an 8-mile radius of Rota International Airport and within a 12-mile radius of Saipan International Airport and within a 7-mile radius of the Tinian International Airport. That airspace extending upward from 1,200 feet above the surface within 100-mile radius of the Nimitz VORTAC and within a 35-mile radius of the Saipan NDB, excluding the portion that coincides with W-517.

* * * * *

Issued in Washington, DC, February 18, 2009.

Paul Gallant,

Acting Manager, Airspace and Rules Group.

[FR Doc. E9–3905 Filed 2–25–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30651 Amdt. No. 3308]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 26, 2009. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 26, 2009.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit <http://www.nfdc.faa.gov> to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS-420), Flight

Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK, 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954-4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPs, Takeoff Minimums and/or ODPs. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260-3, 8260-4, 8260-5, 8260-15A, and 8260-15B when required by an entry on 8260-15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPs, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on February 6, 2009.

John M. Allen,
Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721-44722.

■ 2. Part 97 is amended to read as follows:

Effective 12 MAR 2009

Iliamna, AK, Iliamna, NDB RWY 35, Amdt 2
 Iliamna, AK, Iliamna, RNAV (GPS) RWY 7, Amdt 3
 Iliamna, AK, Iliamna, RNAV (GPS) RWY 17, Amdt 1
 Iliamna, AK, Iliamna, Takeoff Minimums and Obstacle DP, Amdt 2
 Ketchikan, AK, Ketchikan, ILS OR LOC/DME Y RWY 11, Amdt 7A
 Toksook Bay, AK, Toksook Bay, RNAV (GPS) RWY 34, Amdt 1A
 Wrangell, AK, Wrangell, RNAV (GPS)-A, Orig
 Alabaster, AL, Shelby County, RNAV (GPS) RWY 16, Orig
 Alabaster, AL, Shelby County, RNAV (GPS) RWY 34, Amdt 1
 Alabaster, AL, Shelby County, Takeoff Minimums and Obstacle DP, Amdt 3
 Anniston, AL, Anniston Metropolitan, ILS OR LOC RWY 5, Amdt 3
 Anniston, AL, Anniston Metropolitan, NDB RWY 5, Amdt 4
 Demopolis, AL, Demopolis Muni, RNAV (GPS) RWY 4, Orig
 Demopolis, AL, Demopolis Muni, RNAV (GPS) RWY 22, Orig
 Demopolis, AL, Demopolis Muni, Takeoff Minimums and Obstacle DP, Amdt 1
 Flippin, AR, Marion County Rgnl, RNAV (GPS) RWY 4, Orig
 Flippin, AR, Marion County Rgnl, RNAV (GPS) RWY 22, Orig
 Flippin, AR, Marion County Rgnl, VOR-A, Amdt 14
 Flippin, AR, Marion County Rgnl, VOR/DME RNAV RWY 22, Orig-A, CANCELLED
 Harrison, AR, Boone County, RNAV (GPS) RWY 36, Amdt 1
 Osceola, AR, Osceola Muni, NDB OR GPS RWY 19, Orig-B, CANCELLED
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (GPS) Y RWY 7L, Amdt 1
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (GPS) Y RWY 7R, Amdt 1
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (GPS) Y RWY 8, Amdt 1
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (GPS) Y RWY 25L, Amdt 1
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (GPS) Y RWY 25R, Amdt 2
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (GPS) Y RWY 26, Amdt 2
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (RNP) Z RWY 7L, Orig
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (RNP) Z RWY 7R, Orig
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (RNP) Z RWY 8, Orig
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (RNP) Z RWY 25L, Orig
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (RNP) Z RWY 25R, Orig
 Phoenix, AZ, Phoenix Sky Harbor Intl, RNAV (RNP) Z RWY 26, Orig
 Riverside, CA, Riverside Muni, RNAV (GPS) RWY 9, Orig
 Riverside, CA, Riverside Muni, VOR RWY 9, Orig
 Riverside, CA, Riverside Muni, VOR-A, Orig

Riverside, CA, Riverside Muni, VOR-B, Orig
 Riverside, CA, Riverside Muni, VOR OR GPS RWY 9, Amdt 9B, CANCELLED
 Riverside, CA, Riverside Muni, VOR OR GPS-A, Amdt 5B, CANCELLED
 Riverside, CA, Riverside Muni, VOR OR GPS-B, Orig-B, CANCELLED
 Steamboat Springs, CO, Steamboat Springs/Bob Adams Field, GPS-E, Orig-A, CANCELLED
 Steamboat Springs, CO, Steamboat Springs/Bob Adams Field, RNAV (GPS)-E, Orig
 Clewiston, FL, Airglades, RNAV (GPS) RWY 13, Orig
 Clewiston, FL, Airglades, RNAV (GPS) RWY 31, Orig
 Clewiston, FL, Airglades, Takeoff Minimums and Obstacle DP, Orig
 West Palm Beach, FL, North Palm Beach County General Aviation, RNAV (GPS) RWY 13, Orig-A
 Atlanta, GA, Cobb County-McCollum Field, ILS OR LOC RWY 27, Amdt 3
 Atlanta, GA, Cobb County-McCollum Field, RNAV (GPS) RWY 9, Amdt 3
 Atlanta, GA, Cobb County-McCollum Field, RNAV (GPS) RWY 27, Amdt 3
 Atlanta, GA, Cobb County-McCollum Field, Takeoff Minimums and Obstacle DP, Amdt 2
 Atlanta, GA, Cobb County-McCollum Field, VOR/DME RWY 9, Amdt 2
 Dallas, GA, Paulding County Regional, ILS OR LOC/DME RWY 31, Orig
 Dallas, GA, Paulding County Regional, RNAV (GPS) RWY 13, Orig
 Dallas, GA, Paulding County Regional, RNAV (GPS) RWY 31, Orig
 Dallas, GA, Paulding County Regional, RNAV (GPS)-A, Orig
 Dallas, GA, Paulding County Regional, Takeoff Minimums and Obstacle DP, Orig
 Rome, GA, Richard B Russell, RNAV (GPS) RWY 1, Orig
 Rome, GA, Richard B Russell, RNAV (GPS) RWY 7, Orig
 Rome, GA, Richard B Russell, RNAV (GPS) RWY 19, Orig
 Rome, GA, Richard B Russell, RNAV (GPS) RWY 25, Orig
 Rome, GA, Richard B Russell, VOR/DME RWY 1, Amdt 9
 Rome, GA, Richard B Russell, VOR/DME RWY 19, Amdt 9
 Des Moines, IA, Des Moines Intl, RNAV (GPS) RWY 13, Amdt 1A
 Des Moines, IA, Des Moines Intl, RNAV (GPS) RWY 31, Amdt 1A
 Harlan, IA, Harlan Muni, NDB RWY 33, Amdt 5A, CANCELLED
 Iowa Falls, IA, Iowa Falls Muni, NDB RWY 31, Amdt 5
 Iowa Falls, IA, Iowa Falls Muni, RNAV RWY 31, Orig
 Iowa Falls, IA, Iowa Falls Muni, Takeoff Minimums and Obstacle DP, Orig
 Ottumwa, IA, Ottumwa Rgnl, RNAV RWY 31, Orig
 Ottumwa, IA, Ottumwa Rgnl, Takeoff Minimums and Obstacle DP, Orig
 Ottumwa, IA, Ottumwa Rgnl, VOR RWY 31, Amdt 15
 Idaho Falls, ID, Idaho Falls Regional, RNAV (GPS) RWY 20, Orig
 Idaho Falls, ID, Idaho Falls Regional, VOR RWY 20, Amdt 10

Monee, IL, Bult Field, RNAV (GPS) RWY 9, Orig
 Monee, IL, Bult Field, RNAV (GPS) RWY 27, Orig
 Monee, IL, Bult Field, Takeoff Minimums and Obstacle DP, Orig
 Natchitoches, LA, Natchitoches Rgnl, NDB RWY 35, Amdt 5
 Sulphur, LA, Southland Field, GPS RWY 15, Amdt 1A, CANCELLED
 Sulphur, LA, Southland Field, LOC RWY 15, Amdt 2
 Sulphur, LA, Southland Field, RNAV (GPS) RWY 15, Orig
 Sulphur, LA, Southland Field, RNAV (GPS) RWY 33, Orig
 Sulphur, LA, Southland Field, Takeoff Minimums and Obstacle DP, Orig
 Sulphur, LA, Southland Field, VOR/DME-A, Amdt 2
 Hagerstown, MD, Hagerstown Rgnl-Richard A. Henson Fld, ILS OR LOC RWY 27, Amdt 10
 Hagerstown, MD, Hagerstown Rgnl-Richard A. Henson Fld, RNAV (GPS) RWY 9, Orig
 Hagerstown, MD, Hagerstown Rgnl-Richard A. Henson Fld, RNAV (GPS) RWY 27, Orig
 Hagerstown, MD, Hagerstown Rgnl-Richard A. Henson Fld, VOR RWY 9, Amdt 7
 Detroit, MI, Coleman A. Young Muni, RNAV (GPS) RWY 15, Orig
 Detroit, MI, Coleman A. Young Muni, RNAV (GPS) RWY 33, Orig
 Detroit, MI, Coleman A. Young Muni, VOR RWY 33, Amdt 28
 Iron Mountain Kingsford, MI, Ford, RNAV (GPS) RWY 1, Orig
 Iron Mountain Kingsford, MI, Ford, RNAV (GPS) RWY 19, Orig
 Iron Mountain Kingsford, MI, Ford, Takeoff Minimums and Obstacle DP, Amdt 5
 Iron Mountain Kingsford, MI, Ford, VOR RWY 31, Amdt 16
 Morris, MN, Morris Muni-Charlie Schmidt Fld, RNAV (GPS) RWY 14, Orig
 Morris, MN, Morris Muni-Charlie Schmidt Fld, VOR RWY 14, Amdt 1
 Redwood Falls, MN, Redwood Falls Muni, GPS RWY 30, Orig-A, CANCELLED
 Redwood Falls, MN, Redwood Falls Muni, RNAV (GPS) RWY 30, Orig
 Redwood Falls, MN, Redwood Falls Muni, Takeoff Minimums and Obstacle DP, Orig
 Redwood Falls, MN, Redwood Falls Muni, VOR-A, Amdt 5
 Burlington, NC, Burlington-Alamance Regional, GPS RWY 6, Amdt 1A, CANCELLED
 Burlington, NC, Burlington-Alamance Regional, ILS OR LOC/NDB RWY 6, Amdt 1
 Burlington, NC, Burlington-Alamance Regional, RNAV (GPS) RWY 6, Orig
 Franklin, NC, Macon County, RNAV (GPS)-A, Orig
 Franklin, NC, Macon County, Takeoff Minimums and Obstacle DP, Orig
 Roanoke Rapids, NC, Halifax-Northampton Regional, RNAV (GPS) RWY 2, Orig
 Roanoke Rapids, NC, Halifax-Northampton Regional, RNAV (GPS) RWY 20, Orig
 Roanoke Rapids, NC, Halifax-Northampton Regional, Takeoff Minimums and Obstacle DP, Orig
 Roanoke Rapids, NC, Halifax-Northampton Regional, VOR/DME RWY 2, Orig

- Grand Forks, ND, Grand Forks Intl, RNAV (GPS) RWY 9L, Amdt 1
- Grand Forks, ND, Grand Forks Intl, RNAV (GPS) RWY 27R, Amdt 2
- Grand Forks, ND, Grand Forks Intl, Takeoff Minimums and Obstacle DP, Amdt 2
- Hastings, NE, Hastings Muni, Takeoff Minimums and Obstacle DP, Amdt 3
- Newark, NJ, Newark Liberty Intl, RNAV (RNP) Y RWY 29, Orig
- Newark, NJ, Newark Liberty Intl, RNAV (RNP) Z RWY 29, Orig
- Dansville, NY, Dansville Muni, Takeoff Minimums and Obstacle DP, Amdt 2
- Saratoga Springs, NY, Saratoga County, RNAV (GPS) RWY 5, Amdt 1
- Saratoga Springs, NY, Saratoga County, Takeoff Minimums and Textual DP, Amdt 3
- Saratoga Springs, NY, Saratoga County, VOR/DME-A, Amdt
- Sidney, NY, Sidney Muni, Takeoff Minimums and Obstacle DP, Amdt 4
- Sidney, NY, Sidney Muni, VOR RWY 25, Amdt 3
- Lima, OH, Lima Allen County, ILS OR LOC RWY 27, Amdt 3
- Lima, OH, Lima Allen County, RNAV (GPS) RWY 27, Orig
- Lima, OH, Lima Allen County, Takeoff Minimums and Obstacle DP, Orig
- Lima, OH, Lima Allen County, VOR RWY 27, Amdt 15
- Mansfield, OH, Mansfield Lahm Rgnl, ILS OR LOC RWY 32, Amdt 16
- Mansfield, OH, Mansfield Lahm Rgnl, RNAV (GPS) RWY 14, Orig
- Mansfield, OH, Mansfield Lahm Rgnl, RNAV (GPS) RWY 32, Orig
- Mansfield, OH, Mansfield Lahm Rgnl, Takeoff Minimums and Obstacle DP, Orig
- Mansfield, OH, Mansfield Lahm Rgnl, VOR RWY 14, Amdt 14
- Mansfield, OH, Mansfield Lahm Rgnl, VOR RWY 32, Amdt 7
- Toledo, OH, Toledo Express, ILS OR LOC RWY 7, Amdt 28
- Toledo, OH, Toledo Express, RNAV (GPS) RWY 25, Amdt 2
- Sand Springs, OK, William R Pogue Muni, GPS RWY 35, Orig-C, CANCELLED
- Sand Springs, OK, William R Pogue Muni, RNAV (GPS) RWY 17, Orig
- Sand Springs, OK, William R Pogue Muni, RNAV (GPS) RWY 35, Orig
- Sand Springs, OK, William R Pogue Muni, Takeoff Minimums and Obstacle DP, Amdt 2
- Sand Springs, OK, William R Pogue Muni, VOR/DME-A, Amdt 3
- Corvallis, OR, Corvallis Muni, GPS RWY 17, Orig, CANCELLED
- Corvallis, OR, Corvallis Muni, RNAV (GPS) RWY 17, Orig
- Florence, SC, Florence Rgnl, RADAR-1, Amdt 1
- Florence, SC, Florence Rgnl, Takeoff Minimums and Textual DP, Amdt 5
- Florence, SC, Florence Rgnl, VOR OR TACAN-A, Amdt 6
- Crossville, TN, Crossville Memorial-Whitson Fld, ILS OR LOC RWY 26, Amdt 13
- Crossville, TN, Crossville Memorial-Whitson Fld, RNAV (GPS) RWY 26, Orig
- Crossville, TN, Crossville Memorial-Whitson Fld, VOR/DME-A, Amdt 9
- Murfreesboro, TN, Murfreesboro Muni, RNAV (GPS) RWY 18, Amdt 1
- Murfreesboro, TN, Murfreesboro Muni, RNAV (GPS) RWY 36, Amdt 1
- Smyrna, TN, Smyrna, NDB RWY 32, Amdt 9
- Smyrna, TN, Smyrna, RNAV (GPS) RWY 14, Orig
- Smyrna, TN, Smyrna, RNAV (GPS) RWY 32, Orig
- Smyrna, TN, Smyrna, Takeoff Minimums and Obstacle DP, Amdt 5
- Smyrna, TN, Smyrna, VOR/DME RWY 14, Amdt 7
- Smyrna, TN, Smyrna, VOR/DME RWY 32, Amdt 13
- Sparta, TN, Upper Cumberland Rgnl, RNAV (GPS) RWY 4, Orig-A
- Sparta, TN, Upper Cumberland Rgnl, RNAV (GPS) RWY 22, Orig-A
- Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, RNAV (GPS) RWY 18L, Orig
- Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, RNAV (GPS) RWY 18R, Orig
- Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, RNAV (GPS) RWY 36L, Amdt 2
- Dallas-Fort Worth, TX, Dallas-Fort Worth Intl, RNAV (GPS) RWY 36R, Amdt 2
- Houston, TX, Ellington Field, RNAV (GPS) RWY 22, Amdt 1
- Huntsville, TX, Huntsville Muni, NDB RWY 18, Amdt 1
- Huntsville, TX, Huntsville Muni, RNAV (GPS) RWY 18, Orig
- Huntsville, TX, Huntsville Muni, VOR/DME-A, Amdt 6
- Salt Lake City, UT, Salt Lake City Intl, Takeoff Minimums and Obstacle DP, Amdt 10
- Rutland, VT, Rutland-Southern Vermont Rgnl, LOC/DME RWY 19, Orig, CANCELLED
- Rutland, VT, Rutland-Southern Vermont Rgnl, LOC Y RWY 19, Amdt 3
- Rutland, VT, Rutland-Southern Vermont Rgnl, LOC Z RWY 19, Amdt 1
- Rutland, VT, Rutland-Southern Vermont Rgnl, RNAV (GPS) RWY 1, Orig
- Rutland, VT, Rutland-Southern Vermont Rgnl, RNAV (GPS) RWY 19, Amdt 1
- Rutland, VT, Rutland-Southern Vermont Rgnl, VOR/DME RWY 1, Amdt 1
- Rutland, VT, Rutland-Southern Vermont Rgnl, VOR/DME RWY 19, Amdt 1
- Burlington/Mount Vernon, WA, Skagit Rgnl, RNAV (GPS) RWY 28, Orig-A
- Rhineland, WI, Rhineland-Oneida County, ILS OR LOC RWY 9, Amdt 7
- Stevens Point, WI, Stevens Point Muni, RNAV (GPS) RWY 3, Orig
- Stevens Point, WI, Stevens Point Muni, RNAV (GPS) RWY 21, Orig
- Stevens Point, WI, Stevens Point Muni, VOR/DME RWY 3, Amdt 15
- Stevens Point, WI, Stevens Point Muni, VOR/DME RWY 21, Amdt 19
- Watertown, WI, Watertown Muni, GPS RWY 29, Orig, CANCELLED
- Watertown, WI, Watertown Muni, NDB RWY 23, Amdt 2
- Watertown, WI, Watertown Muni, RNAV (GPS) RWY 5, Orig
- Watertown, WI, Watertown Muni, RNAV (GPS) RWY 11, Orig
- Watertown, WI, Watertown Muni, RNAV (GPS) RWY 23, Orig
- Watertown, WI, Watertown Muni, RNAV (GPS) RWY 29, Orig
- Watertown, WI, Watertown Muni, VOR/DME RNAV OR GPS RWY 5, Amdt 3B, CANCELLED
- Beckley, WV, Raleigh County Memorial, RNAV (GPS) RWY 10, Orig
- Beckley, WV, Raleigh County Memorial, RNAV (GPS) RWY 19, Orig
- Beckley, WV, Raleigh County Memorial, RNAV (GPS) RWY 28, Orig
- [FR Doc. E9-3213 Filed 2-25-09; 8:45 am]
- BILLING CODE 4910-13-P**

DEPARTMENT OF TRANSPORTATION**14 CFR Part 97****[Docket No. 30652; Amdt. No. 3309]****Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective February 26, 2009. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 26, 2009.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

- For Examination—*
1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
 2. The FAA Regional Office of the region in which the affected airport is located;
 3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or

4. 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.

Availability—All SIAPs are available online free of charge. Visit nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Harry J. Hodges, Flight Procedure Standards Branch (AFS-420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954-4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation

by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P-NOTAMs.

The SIAPs, as modified by FDC P-NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

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

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721-44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs.

FDC date	State	City	Airport	FDC No.	Subject
01/16/09	OH	COLUMBUS	RICKENBACKER INTL	9/2429	THIS NOTAM PUBLISHED IN TL 09-05 IS HEREBY RE-SCINDED IN ITS ENTIRETY. ILS RWY 5R, ILS RWY 5R (CAT II), AMDT 2
01/22/09	AL	ALABASTER	SHELBY COUNTY	9/2468	VOR OR GPS A, AMDT 6
01/22/09	OK	BARTLESVILLE	BARTLESVILLE MUNI	9/2554	LOC RWY 17, AMDT 3
01/22/09	AZ	PHOENIX	PHOENIX-MESA GATEWAY	9/2602	RNAV (GPS) RWY 30L, ORIG
01/22/09	MQ	SAND ISLAND, MIDWAY ATOLL	HENDERSON FLD	9/2619	RNAV (GPS) RWY 24, ORIG-A
01/22/09	MQ	SAND ISLAND, MIDWAY ATOLL	HENDERSON FLD	9/2620	RNAV (GPS) RWY 6, ORIG-A

FDC date	State	City	Airport	FDC No.	Subject
01/22/09	MQ	SAND ISLAND, MIDWAY ATOLL.	HENDERSON FLD	9/2621	NDB RWY 24, ORIG
01/22/09	MQ	SAND ISLAND, MIDWAY ATOLL.	HENDERSON FLD	9/2622	NDB RWY 6, ORIG
01/23/09	OK	TULSA	TULSA INTL	9/2663	ILS OR LOC RWY 36R, ILS RWY 36R (CAT II) AMDT 29
01/23/09	MN	MINNEAPOLIS	AIRLAKE	9/2667	VOR OR GPS RWY 12, AMDT 1A
01/23/09	MN	MINNEAPOLIS	AIRLAKE	9/2668	ILS OR LOC RWY 30, ORIG-B
01/23/09	TX	EL PASO	HORIZON	9/2701	VOR/DME OR GPS A, AMDT 4A
01/23/09	TX	EL PASO	EL PASO INTL	9/2704	RADAR-1, AMDT 13B
01/23/09	TX	EL PASO	EL PASO INTL	9/2705	ILS OR LOC RWY 22, AMDT 32A
01/23/09	TX	EL PASO	EL PASO INTL	9/2706	GPS RWY 4, ORIG-A
01/23/09	TX	EL PASO	EL PASO INTL	9/2707	RNAV (GPS) RWY 22, ORIG-A
01/23/09	NY	CANANDAIGUA	CANANDAIGUA	9/2878	RNAV (GPS) RWY 13, ORIG
02/03/09	MD	BALTIMORE	BALTIMORE-WASHINGTON INTL THURGOOD MARSHALL.	9/3453	ILS RWY 15R, AMDT 15A
01/30/09	OR	REDMOND	ROBERTS FIELD	9/3721	ILS OR LOC RWY 22, AMDT 2
02/05/09	OH	COLUMBUS	RICKENBACKER INTL	9/4049	ILS RWY 5R, ILS RWY 5R (CAT II) AMDT 2
02/04/09	CA	PALMDALE	PALMDALE REGIONAL/USAF PLANT 42.	9/4286	RNAV (GPS) RWY 25, ORIG-B

[FR Doc. E9-3215 Filed 2-25-09; 8:45 am]
BILLING CODE 4910-13-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM08-3-001; Order No. 716-A]

Mandatory Reliability Standard for Nuclear Plant Interface Coordination

Issued February 19, 2009.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order on rehearing.

SUMMARY: In this order, the Commission denies the New York Independent System Operator, Inc.'s request for rehearing of Order No. 716, *Mandatory Reliability Standard for Nuclear Plant Interface Coordination*. In Order No. 716, the Commission approved as mandatory and enforceable the Nuclear Plant Interface Coordination Reliability Standard proposed by the North American Electric Reliability Corporation.

DATES: *Effective Date:* This order denying rehearing of the final rule will become effective March 30, 2009.

FOR FURTHER INFORMATION CONTACT:

Michael Gandolfo (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street, NE.,

Washington, DC 20426, (202) 502-6817.

Richard M. Wartchow (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8744.

SUPPLEMENTARY INFORMATION:

United States of America.
Federal Energy Regulatory Commission.

Before Commissioners: Jon Wellinghoff, Acting Chairman; Suedeen G. Kelly, Marc Spitzer, and Philip D. Moeller.

Order on Rehearing

(Issued February 19, 2009.)

1. In Order No. 716, the Commission approved as mandatory and enforceable the Nuclear Plant Interface Coordination Reliability Standard proposed by the North American Electric Reliability Corporation (NERC).¹ In this order, the Commission denies the New York Independent System Operator, Inc.'s (New York ISO) request for rehearing of Order No. 716.

Background

2. On November 19, 2007, NERC, the Commission-certified Electric Reliability Organization (ERO), submitted for Commission approval the Nuclear Reliability Standard, designated NUC-001-1. NERC supplemented the

¹ *Mandatory Reliability Standard for Nuclear Plant Interface Coordination*, Order No. 716, 73 FR 63,770 (Oct. 27, 2008), 125 FERC ¶ 61,065, *addressing proposals* in Notice of Proposed Rulemaking (NOPR), 73 FR 16,586 (Mar. 28, 2008), FERC Stats. and Regs. ¶ 32,629 (2008).

filing on December 11, 2007 to propose four related NERC glossary terms.

3. In Order No. 716, the Commission approved the Nuclear Reliability Standard and related definitions. In doing so, the Commission approved the applicability provisions provided in Requirements R1 and R2, as clarified in NERC's May 13, 2008 comments.² The Nuclear Reliability Standard applies to "transmission entities," defined as "all entities that are responsible for providing services related to Nuclear Plant Interface Requirements (NPIRs)"³ and lists 11 types of functional entities that could provide services related to NPIRs.⁴ In Order No. 716, the Commission accepted NERC's clarification that the Nuclear Reliability Standard will apply to an entity that provides services relating to a nuclear plant generator operator's nuclear plant licensing requirements on the later of one of two events: on the effective date, for entities in NERC's compliance registry that already received notice in the form of a proposed NPIR, or on the

² *Id.* P 68.

³ The NERC glossary defines NPIRs as "The requirements, based on [nuclear plant licensing requirements] and Bulk Electric System requirements, that have been mutually agreed to by the Nuclear Plant Generator Operator and the applicable Transmission Entities."

⁴ The Nuclear Reliability Standard list of the applicable functional entities consists of transmission operators, transmission owners, transmission planners, transmission service providers, balancing authorities, reliability coordinators, planning authorities, distribution providers, load-serving entities, generator owners and generator operators.

date that a proposed NPIR is provided by the nuclear plant generator operator.⁵

4. In its Nuclear Reliability Standard Notice of Proposed Rulemaking (NOPR), the Commission proposed to accept the applicability provisions with the understanding that the Reliability Standard would be effective against a transmission entity when it executed an interface agreement with the nuclear plant generator operator.⁶ In its comments, NERC clarified its initial description of the applicability provisions and made clear that NUC-001-1 applied to transmission entities following receipt of the notification from the nuclear plant generator operator.⁷ Based on NERC's and other commenters' explanations, the Commission accepted the Nuclear Reliability Standard with the understanding that it would apply to transmission entities that provide services relating to nuclear plant licensing requirements on the implementation date, i.e., the NERC effective date for the Reliability Standard. On that date, the Nuclear Reliability Standard goes into effect immediately for transmission entities that have received notification from the nuclear plant generator, so long as the entity is registered on the NERC compliance registry.

Request for Rehearing

5. On November 17, 2008, New York ISO filed a request for rehearing of Order No. 716. New York ISO requests rehearing of the Commission's determination that the Nuclear Reliability Standard applies to a transmission entity upon receipt of notification by a nuclear plant generator operator. New York ISO argues that this method for determining applicability violates due process because it (1) allows the nuclear plant generator operator to determine which entities are subject to the Reliability Standard, and (2) does not provide transmission entities that receive notice from a nuclear plant generator operator any "clear recourse if they disagree with the nuclear plant generator operator's determination that they are responsible for addressing a specific NPIR."⁸ New York ISO states the Commission's ruling in Order No. 716 would allow an entity to become subject to the Nuclear Reliability Standard outside the NERC Rules of Procedure registration process, and place such an entity in "an untenable position" if it disagrees with

the nuclear plant generator operator that it is responsible for providing services related to a specific NPIR. New York ISO, therefore, requests that the Commission grant rehearing and hold that the Nuclear Reliability Standard is not applicable to a prospective transmission entity upon being approached by a nuclear plant generator operator with a NPIR until the entity consents to providing services, or until it has been found responsible for providing services by NERC or a Regional Entity, through a dispute resolution process.

6. New York ISO contends that applying the Reliability Standard to an entity once it has been approached by a nuclear plant generator operator with a proposed NPIR is at odds with the Commission's decision in Order No. 693, which approved the NERC compliance registry process to determine those users, owners and operators of the Bulk-Power System that must comply with the Reliability Standards.⁹ According to New York ISO, this approach effectively gives a nuclear plant generator operator the authority to determine the applicability of the Nuclear Reliability Standard (rather than NERC or a Regional Entity) without providing any clear avenue of appeal (as would be available if the compliance registry process were used). New York ISO claims that this is an unexplained change in the Commission's approach to applicability.

7. New York ISO would find that an entity is responsible for providing services, and subject to the Nuclear Reliability Standard, if it consents to provide services once it has been approached by a nuclear plant generator operator. Alternatively, NERC or a Regional Entity could find the entity responsible for providing services. New York ISO proposes that, to minimize

⁹ *Id.* at 10, citing *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 97 (2007): Each individual Reliability Standard will then identify the set of users, owners and operators of the Bulk-Power System that must comply with that standard. While the Commission may take prospective action against an entity that was not previously identified as a user, owner or operator through the NERC registration process once it has been added to the registry, the Commission will not assess penalties against an entity that has not previously been put on notice, through the NERC registration process, that it must comply with particular Reliability Standards. Under this process, if there is an entity that is not registered and NERC later discovers that the entity should have been subject to the Reliability Standards, NERC has the ability to add the entity, and possibly other entities of a similar class, to the registration list and to direct corrective action by that entity on a going-forward basis. The Commission believes that this should prevent an entity from being subject to a penalty for violating a Reliability Standard without prior notice that it must comply with that Reliability Standard.

delays, an entity could be found to constructively consent if it fails to timely invoke dispute resolution procedures.

8. In order to resolve disputes over whether an entity approached by a nuclear plant generator operator is responsible for providing services relating to a NPIR, New York ISO proposes a process to govern the identification of transmission entities and the implementation of interface agreements. New York ISO states that the lack of a clear dispute resolution process is unjust and unreasonable, given the Commission's determination that "an entity is subject to NUC-001-1 at the time that it is approached by a nuclear plant generator operator about providing NPIR-related services." New York ISO states that the Commission should implement a dispute resolution process that adopts the existing registration dispute procedures, found in section 501 of NERC's Rules of Procedure, which contain specific timelines for filing and resolution of the dispute.

9. In addition, New York ISO states that in Order No. 716, the Commission should have clarified that an entity that becomes subject to the Nuclear Reliability Standard would have a reasonable time (such as 90 days) to implement an interface agreement with a nuclear plant generator operator after it either agrees that it is responsible for an NPIR or has been held responsible for providing services to meet an NPIR by NERC or a Regional Entity.

Discussion

10. The Commission denies New York ISO's request for rehearing. NERC previously clarified the applicability provisions in response to the NOPR request for comment on whether the Nuclear Reliability Standard is enforceable against a transmission entity upon execution of an interface agreement or at some earlier time.¹⁰ Several of the commenters supported NERC's clarified proposal, which was ultimately approved in Order No. 716, while others, including the ISO/RTO Council, expressed concerns that are similar to those raised in New York ISO's request for rehearing, and which the Commission rejected. Nothing in New York ISO's request for rehearing requires the Commission to revisit that determination.

11. Order No. 716 approved NERC's proposal to make the Nuclear Reliability

¹⁰ See Order No. 716, 125 FERC ¶ 61,065 at P 34, 59. The Reliability Standards are enforceable against a particular entity once it is included on the compliance registry. See *id.* P 42-44.

⁵ Order No. 716, 125 FERC ¶ 61,065 at P 68.

⁶ NOPR at P 29.

⁷ Order No. 716, 125 FERC ¶ 61,065 at P 60.

⁸ New York ISO request for rehearing at 4, 13.

Standard applicable to transmission entities once they are notified by a nuclear plant generator operator that they are responsible for providing services needed to support nuclear plant licensing requirements as a result of the generator operator's delivery of a proposed NPIR. The Commission rejected arguments that use of the term *transmission entities* is inconsistent with the NERC registry process.¹¹ Furthermore, nothing in Order No. 716 supports New York ISO's suggestion that an entity becomes subject to the Nuclear Reliability Standard outside the NERC registration process. As with all other Reliability Standards, the NERC registry process determines whether an entity is a user, owner or operator of the Bulk-Power System, and, therefore, is required to comply with the Reliability Standards. The question whether an entity must comply with a particular Reliability Standard—the relevant issue in this proceeding—is resolved based on the provisions of the Reliability Standard and the factual circumstances surrounding a given user, owner or operator of the Bulk-Power System.¹²

12. Contrary to New York ISO's position, the issues New York ISO seeks to raise are outside the scope of the registry process established in the NERC Rules of Procedure. As discussed in the NOPR, NERC's registry process establishes procedures to identify and register owners, operators and users of the Bulk-Power System, including organizations performing functions listed in the definition of transmission entities, generators that are material to the Reliable Operation of the Bulk-Power System, and organizations that should be subject to the Reliability Standards.¹³ NERC's decision to register an entity, because it meets one or more of the functions established in the registry criteria, establishes that the entity must comply with the universe of Reliability Standards that are applicable to the functional classes in which the entity is registered. However, NERC's registration does not determine whether an entity must comply with each and every Reliability Standard applicable to the functional class. Whether an entity must comply with a particular Reliability Standard, such as NUC-001-1, is determined based on the

language of the Reliability Standard. For the Nuclear Reliability Standard, the primary factual issues to be addressed concern whether an entity is responsible for providing services related to NPIRs.¹⁴ Order No. 716 explained:

NERC and others have made clear that NUC-001-1 was intended to apply to transmission entities following receipt of notification from the nuclear plant generator operator, rather than after execution of the interface agreement. The applicability of NUC-001-1 is determined by the function performed by the entity. * * * This is consistent with other Reliability Standards where an entity is subject to a Reliability Standard based on the factual determination of whether it operates certain facilities or provides a certain service, not based on the consent of the entity.¹⁵

13. Industry comments on the NOPR indicate that the nuclear plant generator operator is in the best position to interpret nuclear plant licensing requirements and system needs affecting operations, based on the Nuclear Regulatory Commission requirements to perform grid stability studies, documented in plant licensing materials.¹⁶ Industry representatives concluded that NUC-001-1 should be enforceable against transmission service providers whose commitments to provide services form part of the basis for the original plant license. They also concluded that nuclear plant licensees and transmission service providers are already obliged to provide assurances with respect to the capability and stability of offsite power sources for the nuclear plant. Thus, we find appropriate NERC's reliance on nuclear plant generator operators to identify the transmission entities that are responsible for providing services relating to NPIRs.

14. The Nuclear Reliability Standard applies to transmission entities that are registered with NERC and that are responsible for providing services related to NPIRs consistent with the language of NUC-001-1. Thus, contrary to New York ISO's assertion, this process is consistent with the NERC registration process, which provides for adequate review of NERC's determinations. An entity that is subject to registration for providing services to a nuclear power plant may appeal the registration determination.¹⁷ Entities

who are unsure whether NUC-001-1 applies to a given set of circumstances may seek clarification through a request for an interpretation from NERC.¹⁸ Finally, an entity that believes it has been unfairly found to have violated NUC-001-1 may appeal NERC's determination to this Commission.¹⁹

15. We do not find that the identification process established in the Nuclear Reliability Standard improperly delegates authority to nuclear plant generator operators. Under NUC-001-1, nuclear plant generator operators must identify transmission entities by providing proposed NPIRs to transmission entities. Such identification is no different than the provision of any factual information under the Reliability Standards and represents no delegation of authority. Nuclear plant generator operators have no discretion to select transmission entities, and are subject to penalties if they fail to identify an entity providing services covered by NUC-001-1. As documented in Order No. 716, the entities providing services to support nuclear plant licensing requirements are known to the nuclear plant generator operators and such entities are familiar with their role in providing services, as a result of past efforts to negotiate services needed to meet nuclear plant licensing requirements.²⁰ On rehearing, we affirm our finding that no additional consent is necessary for a transmission entity to become subject to the Nuclear Reliability Standard.

16. In its request for rehearing, New York ISO objects to what it characterizes as the Commission's determination that a transmission entity may become subject to the Nuclear Reliability Standard, and any resulting enforcement action including penalties, upon being "approached" by a nuclear plant generator operator. We find above that speculation as to whether an entity may be in violation of the Nuclear Reliability Standard if it fails to execute an interface agreement under such circumstances to be beyond the scope of this proceeding. However, we emphasize, as discussed above, that the record in this proceeding demonstrated that potential transmission entities should be familiar with their roles as providing services to support nuclear

¹¹ *Id.* P 21.

¹² *Id.* P 68 ("This [approach] is consistent with other Reliability Standards where an entity is subject to a Reliability Standard based on the factual determination of whether it operates certain facilities or provides a certain service, not based on the consent of the entity.").

¹³ NOPR at P 24 n. 21 (citing Order No. 693 at P 92-96; NERC Statement of Compliance Registry Criteria).

¹⁴ NUC-001-1, section 4.2 (Applicability); *see also* Order No. 716, 125 FERC ¶ 61,065 at P 21 ("While the Commission prefers that Reliability Standards apply to all entities within a functional category defined in the Registry Criteria, it has approved appropriate limitations incorporated into an applicability section.").

¹⁵ Order No. 716, 125 FERC ¶ 61,065 at P 68.

¹⁶ *Id.* P 65-66.

¹⁷ NERC Rules of Procedure, section 504.

¹⁸ Any person that is "directly and materially affected" by Bulk-Power System reliability may request an interpretation of a Reliability Standard. NERC Rules of Procedure, Appendix 3A, Reliability Standards Development Procedure (2008).

¹⁹ NERC Rules of Procedure, sections 402(6) and 409-11 (establishing appeals process).

²⁰ Order No. 716, 125 FERC ¶ 61,065 at P 28, 65.

licensing requirements.²¹ The Final Rule reflected the Commission's intention that the approved approach to applicability would resolve concerns that entities supplying services related to nuclear plant licensing requirements would balk at executing an interface agreement, if execution made them subject to NUC-001-1.²² Furthermore, given the appeal rights provided for in the NERC enforcement process, we do not believe that an entity that disagrees with its role in providing such services will be subject to enforcement without recourse. The Commission declines at the rulemaking phase to address issues concerning individual entities that may be approached to provide services relating to nuclear plant licensing requirements. Such issues are better addressed in a proceeding providing a record detailing the circumstances of a potential transmission entity's registration.

17. We also reject New York ISO's request for an allotted period of time to implement an interface agreement. Order No. 716 stated, "Given that the parties have already been able to agree to the services needed to meet NRC licensing requirements, the same parties should be able to successfully identify the services provided, confirm that they address NRC criteria for off-site power and system limits, and document such services in an auditable format consistent with the NUC-001-1 Requirements."²³ Thus, it should not be a problem for these parties to write up existing arrangements in the format required by the Nuclear Reliability Standard. In addition, in cases where there is no immediate risk to grid reliability, the Commission approved NERC's proposal that it may order mediation as a remedial measure.²⁴ For these reasons, we find that it is unnecessary to incorporate additional time for parties to negotiate and implement an interface agreement.²⁵

18. In addition, the Commission in Order No. 716 rejected calls for formal incorporation of dispute resolution procedures to resolve registration and contract negotiation disputes and, instead, left the use of such procedures to NERC's discretion as a mitigation

option in the event nuclear plant generator operators and transmission entities fail to agree.²⁶ Given our affirmation of the determination that no additional consent is necessary to become subject to the Nuclear Reliability Standard, we likewise affirm our determination that additional dispute resolution procedures to address a failure to consent are not necessary.

The Commission orders:

New York ISO's request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Kelliher is not participating.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9-3964 Filed 2-25-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS WAYNE E. MEYER (DDG 108) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective February 26, 2009 and is applicable beginning February 11, 2009.

FOR FURTHER INFORMATION CONTACT: Commander M. Robb Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374-5066, telephone number: 202-685-5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C.

1605, the Department of the Navy amends 32 CFR Part 706.

This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS WAYNE E. MEYER (DDG 108) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights; Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights; and Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, amend part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follow:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended as follows:

■ A. In Table Four, Paragraph 15 by adding, in numerical order, the

²¹ *Id.* P 82.

²² *Id.* P 69.

²³ *Id.* P 82.

²⁴ See discussion at *id.* P 75-80.

²⁵ The Commission declines to address in this order the proper resolution of a dispute concerning an entity, not currently responsible for providing services relating to a generator's nuclear plant licensing requirements, that is approached by a nuclear plant generator operator seeking to procure such services. Such issues are better resolved based on a case-by-case review of a complete factual record, detailing any reliability concerns.

²⁶ Order No. 716, 125 FERC ¶ 61,065 at P 75.

following entry for USS WAYNE E. MEYER (DDG 108):

■ B. In Table Four, Paragraph 16 by adding, in numerical order, the following entry for USS WAYNE E. MEYER (DDG 108):

■ C. In Table Five, by adding, in numerical order, the following entry for USS WAYNE E. MEYER (DDG 108):

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Table Four

* * * * *

15. * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
USS WAYNE E. MEYER	DDG 108	1.84 meters.

16. * * *

Vessel	Number	Obstruction angle relative ship's headings
USS WAYNE E. MEYER	DDG 108	106.71 thru 112.50 [degrees].

* * * * *

Table Five

* * * * *

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward mast-head light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS WAYNE E. MEYER	DDG 108	X	X	X	14.5

Approved: February 11, 2009.
M. Robb Hyde
Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).
 [FR Doc. E9-4094 Filed 2-25-09; 8:45 am]
 BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS DEWEY (DDG 105) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective February 26, 2009 and is applicable beginning February 11, 2009.

FOR FURTHER INFORMATION CONTACT: Commander M. Robb Hyde, JAGC, U.S. Navy, Deputy Assistant Judge Advocate

General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374-5066, telephone number: 202-685-5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706.

This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS DEWEY (DDG 105) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i),

pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights; Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and the horizontal distance between the forward and after masthead lights; and Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is

impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

■ For the reasons set forth in the preamble, amend part 706 of title 32 of the Code of Federal Regulations as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follow:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended as follows:

■ A. In Table Four, Paragraph 15 by adding, in numerical order, the following entry for USS DEWEY (DDG 105):

■ B. In Table Four, Paragraph 16 by adding, in numerical order, the following entry for USS DEWEY (DDG 105):

■ C. In Table Five by adding, in numerical order, the following entry for USS DEWEY (DDG 105):

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Table Four

* * * * *
15. * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
USS DEWEY	DDG 105	1.85 meters.

16. * * *

Vessel	Number	Obstruction angle relative ship's headings
USS DEWEY	DDG 105	109.52 thru 112.50 [degrees].

* * * * *

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward mast-head light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS DEWEY	DDG 105	X	X	X	14.5

Approved: February 11, 2009.

M. Robb Hyde,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

[FR Doc. E9-4095 Filed 2-25-09; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0129]

RIN 1625-AA00

Safety Zone; Baltimore Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone in all navigable waters of the Captain of the Port Baltimore zone. The temporary safety zone restricts vessels from transiting the zone during the effective period, unless authorized by the Captain of the Port Baltimore, or his designated representative. This safety zone is necessary to protect mariners from the hazards associated with ice in the navigable waterway.

DATES: This rule is effective from January 17, 2009 until April 15, 2009. Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before March 30, 2009 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG-2008-0129 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 temporary interim rule, call Ronald L. Houck, Waterways Management Division, at 410-576-2674 or 2693. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments:

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0129), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, 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-2008-0129" 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 and may change this rule based on your comments.

Viewing comments and documents:

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2008-0129 in the Docket ID box, press

Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the Commander, U. S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Baltimore, Maryland, 21226-1791, between 8 a.m. and 3 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).

Public Meeting

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

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest. Immediate action is needed to mitigate the potential safety hazards associated with ice in the navigable waterway to life and property.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30

days after publication in the **Federal Register**. Due to the unexpected nature and growth of ice formation in the Upper Chesapeake Bay and its tributaries and the Chesapeake and Delaware (C & D) Canal, the safety zone is necessary to protect life and property. Therefore a 30-day notice is impracticable.

Background and Purpose

During a moderate or severe winter, frozen waterways present numerous hazards to vessels. Ice in a waterway may hamper a vessel's ability to maneuver, and could cause visual aids to navigation to be submerged, destroyed or moved off station. Ice abrasions and ice pressure could also compromise a vessel's watertight integrity, and non-steel hulled vessels would be exposed to a greater risk of hull breach.

When ice conditions develop to a point where vessel operations become unsafe, it becomes necessary to impose operating restrictions to ensure the safe navigation of vessels. A safety zone is a tool available to the Captain of the Port (COTP) to restrict and manage vessel movement when hazardous conditions exist. The COTP Baltimore is establishing a safety zone within all navigable waters of the COTP Baltimore zone that will restrict access to certain vessels meeting certain conditions specified. Those vessels prohibited from entering the safety zone will be notified via broadcast notice to mariners and marine safety information bulletins.

Ice generally begins to form in the Upper Chesapeake Bay and its tributaries, including the C & D Canal, in late December or early January. During a moderate or severe winter, ice in navigable waters can become a serious problem, requiring the use of federal, state and private ice breaking resources. The Commander, Coast Guard Sector Baltimore will use his COTP authority to promote vessel safety in ice-congested waters and the continuation of waterborne commerce throughout the cold weather months.

Ice fields in the Upper Chesapeake Bay and its tributaries move with prevailing winds and currents. Heavy ice buildups can occur in the C & D Canal, from Town Point Wharf to Reedy Point. Other areas that are commonly affected by high volumes of ice are, the Elk River, Susquehanna River, Patapsco River, Nanticoke River, Wicomico River, Tangier Sound, Pocomoke River and Sound, and the Potomac River. Once ice buildup begins it can affect the transit of large ocean-going vessels. This regulation is intended to mitigate the

threat ice in the COTP Baltimore zone poses to the maritime public.

Discussion of Rule

A safety zone is being established encompassing the COTP Baltimore Zone, as described in 33 CFR 3.25–15. The Captain of the PORT Baltimore anticipates only having to enforce certain parts of the regulated area at certain times. The purpose of this regulation is to promote maritime safety, and to protect mariners transiting the area from the potential hazards due to ice conditions that become a threat to navigation. The COTP will notify the maritime community, via marine broadcasts, of the location and thickness of the ice as well as the ability of vessels to transit through the safety zone depending on the prevailing ice conditions. Prevailing ice conditions will be categorized as Condition One, Condition Two, or Condition Three.

Ice Condition One is an emergency condition in which ice has largely covered the regulated area. Under these conditions, convoys may be required and restrictions based on shaft horsepower and vessel transit may be imposed by the COTP on certain vessels seeking to enter the safety zone.

Ice Condition Two is an alert condition in which at least 2 inches of ice begins to form in the regulated area. The COTP Baltimore may impose restrictions, including but not limited to, those based on shaft horsepower and hull type restrictions for certain vessels seeking to enter the safety zone.

Ice Condition Three is a readiness condition in which weather conditions are favorable for the formation of ice in the regulated area. Daily reports for the Coast Guard Stations and commercial vessels are monitored, and no limitations for vessels seeking to enter the zone based on vessel traffic, hull type or shaft horsepower are anticipated.

Regulatory Analyses

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

Regulatory Planning and Review

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

prevents traffic from transiting the COTP Baltimore Zone, the effect of this regulation will not be significant because there is little vessel traffic associated with recreational boating and commercial fishing during the effective period.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to operate, transit or anchor in the regulated area, from January 17, 2009 until April 15, 2009. This safety zone will not have a significant economic impact on a substantial number of small entities due to a lack of seasonal vessel traffic associated with recreational boating and commercial fishing during the effective period. Although the safety zone will apply to the entire COTP Baltimore Zone, the Captain of the PORT Baltimore anticipates only having to enforce certain parts of the regulated area at certain times. Traffic will be allowed to pass through the zone with the permission of the COTP Baltimore. Also, the COTP will notify the maritime community, via marine broadcasts, of the location and thickness of the ice, as well as the ability of vessels to transit through the safety zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's

responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction,

from further environmental documentation. This rule establishes a safety zone.

An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under

ADDRESSES.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add a new temporary § 165.T05-0129 to read as follows:

§ 165.T05-0129 Safety zone; Baltimore Captain of the Port Zone.

(a) *Regulated Area.* The following area is a safety zone: The navigable waters of the Captain of the Port Baltimore Zone, as described in 33 CFR 3.25-15.

(b) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23(d) of this part.

(1) Vessels are prohibited from entering into or moving within the safety zone unless they meet the requirements set forth by the Captain of the Port (COTP) Baltimore for the prevailing ice conditions. Requirements for entry during periods when the safety zone is enforced will be described via Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22A (157.1 MHz). Requirements may include, but are not limited to, the use of convoys, and restrictions on shaft horsepower, and hull type restrictions, and will depend on the prevailing conditions and vessel type.

(2) Persons desiring to transit in the safety zone not meeting the requirements established by the COTP Baltimore must contact the COTP Baltimore or his designated representative at telephone number 410-576-2693 or on VHF-FM channel 16 (156.8 MHz) to seek permission prior to transiting the area. If permission is granted, all persons and vessels shall comply with the instructions of the

COTP Baltimore or his designated representative.

(3) The Coast Guard vessels enforcing this safety zone can be contacted on VHF-FM marine band radio channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. The COTP Baltimore and his designated representatives can be contacted at telephone number 410-576-2693.

(4) The COTP Baltimore or his designated representative will notify the public of any changes in the status of this safety zone by Marine Safety Radio Broadcast on VHF-FM marine band radio channel 22A (157.1 MHz).

(d) *Definitions.* As used in this section:

Captain of the Port Baltimore means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (b) of this section.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zones by Federal, State and local agencies.

(f) *Enforcement period.* This section will be enforced from January 17, 2009 until April 15, 2009.

Dated: January 17, 2009.

Austin J. Gould,

Commander, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland, Acting.

[FR Doc. E9-4067 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R04-OAR-2008-0605; FRL-8769-5]

Outer Continental Shelf Air Regulations Consistency Update for Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On December 31, 2008, EPA published a document finalizing the update of the Florida Outer Continental Shelf (OCS) Air Regulations. That document inadvertently listed the incorrect filing action date for petitions for judicial review. This document corrects that inadvertent error.

DATES: *Effective Date:* This rule is effective on February 26, 2009.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Permit Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION: EPA is making a correction to the document published on December 31, 2008 (73 FR 78196), finalizing the update of the Florida OCS Air Regulations. EPA made an inadvertent error on page 78197, column 2, last full paragraph. This paragraph begins with the phrase, "Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 17, 2008". This date does not correctly allow for the 60 day filing period. EPA is now correcting the date on page 78197, column 2, last full paragraph by replacing it with the following date: "March 1, 2009".

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 20, 2009.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E9-4123 Filed 2-25-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2004-0083; FRL-8774-1]

RIN 2060-AM71

National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On December 1, 2008, EPA issued direct final amendments to the national emission standards for hazardous air pollutants (NESHAP) for Electric Arc Furnace Steelmaking Facilities. These amendments were issued as a direct final rule, along with a parallel proposal to be used as the basis for final action in the event EPA received any adverse comments on the direct final amendments. Because an

adverse comment was received, EPA is withdrawing the direct final rule.

DATES: As of February 26, 2009, EPA withdraws the direct final rule published at 73 FR 72727 on December 1, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2004-0083. All documents in the docket are listed in the Federal Docket Management System index at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., confidential business information 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 electronically through <http://www.regulations.gov> or in hard copy at the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Electric Arc Furnace Steelmaking Facilities Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mulrine, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5289; fax number: (919) 541-3207; e-mail address: mulrine.phil@epa.gov.

SUPPLEMENTARY INFORMATION: On December 1, 2008, we published a direct final rule (73 FR 72727) and a parallel proposal (73 FR 72756) amending the NESHAP for Electric Arc Furnace Steelmaking Facilities (40 CFR part 63, subpart YYYYY). These amendments were issued as a direct final rule, along with a parallel proposal to be used as the basis for final action in the event EPA received any adverse comments on the direct final amendments. We stated in that direct final rule that if we received adverse comment by December 31, 2008, we would publish a timely withdrawal in the **Federal Register**. Because an adverse comment was received, EPA is withdrawing the direct final rule published at 73 FR 72727 on December 1, 2008 as of February 26, 2009. We will address the adverse comment in a subsequent final action

based on the parallel proposal published on December 1, 2008 (73 FR 72756). As stated in the parallel proposal, we will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 11, 2009.

Elizabeth Craig,

Acting Assistant Administrator, Office of Air and Radiation.

■ Accordingly, the amendments to the rule published in the **Federal Register** on December 1, 2008 (73 FR 72727) are withdrawn as of February 26, 2009.

[FR Doc. E9-4144 Filed 2-25-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R09-RCRA-2008-0726; FRL-8771-8]

Nevada: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Nevada applied for final authorization of revisions to its hazardous waste management program under the Resource Conservation and Recovery Act (RCRA), as amended. The Environmental Protection Agency (EPA) has determined that these changes satisfy all of the requirements necessary to qualify for final authorization, and is authorizing the State's changes through this immediate final rule. EPA is publishing this rule to authorize the changes without a prior proposal because we believe that this action is not controversial and do not expect comments that oppose it. In the Proposed Rules section of this **Federal Register**, EPA is also publishing a proposal to authorize these changes to Nevada's hazardous waste management program. Unless we receive written comments that oppose this authorization during the comment period, the decision to authorize Nevada's changes to its hazardous waste management program will take effect as provided below. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and the separate document in the

proposed rules section of this **Federal Register** will serve as the proposal for purposes of this rulemaking action. EPA will respond to public comments in a later final rule based on the proposal. Nevada's application for program revision is available for public review and comment. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time.

DATES: Final authorization will become effective on April 27, 2009 unless EPA receives adverse written comment on or before March 30, 2009. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-RCRA-2008-0726 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* downey.jennifer@epa.gov.

- *Fax:* (415) 947-3533 (prior to faxing, please notify the EPA contact listed below).

- *Mail:* Send written comments to Jennifer Downey, Region IX (WST-2), 75 Hawthorne Street, San Francisco, CA 94105.

- *Hand Delivery:* Jennifer Downey, Region IX (WST-2), 75 Hawthorne Street, San Francisco, CA 94105. Such deliveries are only accepted during the office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R09-RCRA-2008-0726. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov> including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment

that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>).

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy.

You may view and copy Nevada's application at the following addresses: Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 901 So. Stewart Street, Ste. 4001, Carson City, NV 89701, Phone: 775/687-4670, Business Hours: 9 a.m. to 5 p.m. Monday through Friday. U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/947-4406, Business Hours: 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Monday through Thursday.

FOR FURTHER INFORMATION CONTACT: Jennifer Downey, Region IX (WST-2), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/972-3342. E-mail: downey.jennifer@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why are Revisions to State Programs Necessary?

States which have received Final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must revise their programs and ask EPA to authorize the revisions. Revisions to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must

change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279. States can also initiate their own changes to their hazardous waste program and these changes must then be authorized.

B. What Decisions Have We Made in This Rule?

We conclude that Nevada's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Nevada Final authorization to operate its hazardous waste program with the changes described in this rulemaking. Nevada has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out all authorized aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by HSWA regulations take effect as a matter of federal law in authorized States before those States are authorized for such requirements. Thus, EPA will implement those requirements and prohibitions in Nevada, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of This Authorization Decision?

A facility in Nevada subject to RCRA will now have to comply with the authorized State requirements instead of the corresponding Federal requirements in order to comply with RCRA. Additionally, facilities must comply with any applicable Federally issued requirements, such as, for example, HSWA regulations issued by EPA for which Nevada has not received authorization, and RCRA requirements that are not supplanted by authorized State-issued requirements. Nevada continues to have enforcement responsibilities under its State law to pursue violations of its hazardous waste management program. EPA continues to have independent authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

- Do inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements (including State-issued statutes and regulations that are authorized by EPA, and any applicable federally-issued

statutes and regulations) and suspend or revoke permits; and

- Take enforcement actions regardless of whether the State has taken its own actions.

This authorization action does not impose additional requirements on the regulated community because the regulations for which Nevada is being authorized are already effective under State law, and are not changed by this authorization action.

D. Why Wasn't There a Proposed Rule Before This Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. You may not have another opportunity to comment. In addition to this rule, in the proposed rules section of today's **Federal Register**, we are publishing a separate document that proposes to authorize these State program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will then use the proposal mentioned in the previous paragraph in making any further decision on the authorization of the State program changes. EPA will also address all public comments in a later final rule. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective and which part is being withdrawn.

F. What Has Nevada Previously Been Authorized For?

Nevada initially received final authorization for the base RCRA program on August 19, 1985 effective October 18, 1985 (50 FR 33359). Nevada has since received authorization for all revisions to the Federal RCRA program through June 1999, except for 40 CFR section 260.22 and the final rule published on April 12, 1989 (61 FR 16289) addressing Imports and Exports of Hazardous Waste. The following

Federal Register publication and effective dates apply to those revisions: April 29, 1992 effective June 29, 1992 (57 FR 18083), May 27, 1994 effective July 26, 1994 (59 FR 27472), April 11, 1995 effective June 12, 1995 (60 FR 18358), June 24, 1996 effective August 23, 1996 (60 FR 32345), January 29, 1999 effective March 30, 1999 (64 FR 4596), and June 12, 2002 effective August 12, 2002 (67 FR 40229).

G. What Changes Are We Authorizing With This Action?

On May 27, 2004, August 30, 2004, January 25, 2005 and May 15, 2006, Nevada submitted final complete program revision applications for changes and additions to the Federal RCRA implementing regulations that occurred between July 7, 1999 and July 1, 2005, seeking authorization of those changes, as well as miscellaneous changes to its previously authorized regulations, in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Nevada's hazardous waste management program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Nevada's final authorization for the following program revisions:

1. Program Revision Changes for Federal Rules

Nevada adopts by reference the Federal RCRA regulations in effect as of July 1, 2005 at Nevada Administrative Code (NAC), section 444.8632 as modified by sections 444.86325.1(d) and (f), 444.8633 and 444.8634 adopted effective May 6, 2006. Nevada adopts the Federal requirements under the state statutory authorities as found in the Nevada Revised Statutes (NRS), sections 459.485, 490, 500 and 550 effective 2005. The Federal requirements for which the state is being authorized are as follows:

RCRA Cluster X (Federal Rules Published From July 7, 1999 to June 30, 2000)

(Adopted by Nevada as indicated in section 4 of LCB Petition No. R-2001-02 (filed with the Secretary of State on December 6, 2000) and as amended by LCB Petition 2001-02 [LCB R-037-01] (filed with the Secretary of State on October 25, 2001)).

Hazardous Air Pollutant Standards for Combustors, Miscellaneous Units, and Secondary Lead Smelters; Clarification of BIF Requirements; Technical Correction to Fast-track Rule (64 FR 52828, 9/30/99 as amended 64 FR 63209, 11/19/99) (Checklist 182);

Land Disposal Restrictions Phase IV— Technical Corrections (64 FR 56469, 10/20/99) (Checklist 183);

Accumulation Time for Waste Water Treatment Sludges (65 FR 12378, 3/8/00) (Checklist 184);

Vacatur of Organobromine Production Waste Listings (65 FR 14472, 3/17/00) (Checklist 185);

Petroleum Refining Process Wastes—Clarification (65 FR 36365, 6/8/00) (Checklist 187).

RCRA Cluster XI (Federal Rules Published From July 1, 2000 to June 30, 2001)
(Adopted by Nevada as indicated in section 4 of LCB Petition No. R-2001-02 [LCB R-037-01] (filed with the Secretary of State on October 25, 2001)).

Hazardous Air Pollutant Standards; Technical corrections (65 FR 42292, 7/10/00 amended 66 FR 24270, 5/14/01 and 66 FR 35087, 7/3/01) (Checklist 188);

Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes (65 FR 67068, 11/8/00) (Checklist 189);

Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil (65 FR 81373, 12/26/00) (Checklist 190);

Mixed Waste Rule 66 FR 27218, 5/16/01) (Checklist 191);

Mixture and Derived-From Rules Revisions (66 FR 27266, 5/16/01) (Checklist 192A);

Land Disposal Restrictions Correction (66 FR 27266, 5/16/01) (Checklist 192B);

Change of Official EPA Mailing Address (66 FR 34374, 6/28/01) (Checklist 193).

RCRA Cluster XII (Federal Rules Published From July 1, 2001 to June 30, 2002)
(Adopted by Nevada as indicated in section 4 of LCB Petition No. 2002-11 [LCB R104-02] (filed with the Secretary of State on October 18, 2002)).

Mixture and Derived-From Rules Revision II (66 FR 50332, 10/3/01 amended 66 FR 60153, 12/3/01) (Checklist 194);

Inorganic Chemical Manufacturing Wastes Identification and Listing (66 FR 58258, 11/20/01 amended 67 FR 17119, 4/9/02) (Checklist 195);

CAMU Amendments (67 FR 2962, 1/22/02) (Checklist 196);

Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (67 FR 6792, 2/13/02) (Checklist 197);

Hazardous Air Pollutant Standards for Hazardous Waste Combustors (67 FR 6968, 2/14/02) (Checklist 198);

Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use With MGP Waste (67 FR 11251, 3/13/02) (Checklist 199).

RCRA Cluster XIII (Federal Rules Published From July 1, 2002 to June 30, 2003)
(Adopted by Nevada as indicated in section 4 of LCB File No. R-126-03 [SEC 2003-06] (filed with the Secretary of State on April 13, 2004) and as amended by LCB File No. R-208-03 [SEC 2003-08] (filed with the Secretary of State on April 16, 2004)).

Zinc Fertilizers Made From Recycled Hazardous Secondary Material (67 FR 48393, 7/24/02) (Checklist 200);

Treatment Variance for Radioactively Contaminated Batteries (67 FR 62618, 10/7/02) (Checklist 201);

Hazardous Air Pollutant Standards for Combustors—Corrections 2 (67 FR 77687, 12/19/02) (Checklist 202).

RCRA Clusters XIV and XV (Federal Rules Published From July 1, 2003 to June 30, 2005)
(Adopted by Nevada as indicated in LCB File Number R175-05, effective May 4, 2006).

Recycled Used Oil Management Standards; Clarification (68 FR 44659, 7/30/03) (Checklist 203);

National Environmental Performance Track Program (69 FR 21737, 4/22/04, as amended 69 FR 62217, 10/25/04) (Checklist 204);

NESHAP: Surface Coating of Automobiles and Light-Duty Trucks; Final Rule (69 FR 22601, 4/26/04) (Checklist 205);

Nonwastewaters from Dyes and Pigments (70 FR 9138, 2/24/05) (Checklist 206);

Uniform Hazardous Waste Manifest Rule (70 FR 10776, 3/4/05, as amended 70 FR 35034, 06/16/05) (Checklist 207);

SW-846 Methods Innovation Rule (70 FR 34538, 06/14/05) (Checklist 208).

2. Miscellaneous Changes

During a review of Nevada's regulations in 2002, EPA identified a variety of changes that Nevada had made to provisions EPA had previously authorized, as well as a number of State provisions that have never been authorized. In its program revision applications described in Section G, Nevada also addressed additional State-initiated changes. These miscellaneous changes, which are listed following this paragraph, generally (1) update the CFR reference dates to conform with the State's adoption of the Federal regulations, (2) clarify and make the State's regulations more internally consistent, or (3) bring the State regulations closer to the Federal language. EPA has evaluated the changes addressed in this section and has determined that the State's authorized hazardous waste program, as amended by these provisions, remains equivalent to, consistent with, and no less stringent than the Federal RCRA program for which the State is authorized.

Nevada Administrative Code (NAC), as amended effective May 4, 2006, sections 444.84225 "Class 3 modification"; 444.84235 "Delisted waste"; 444.8427 "facility for community recycling"; 444.84275 "facility for community storage"; 444.8428 "facility for the management of hazardous waste"; 444.843 "hazardous waste" except (b) and (c); 444.8432 "management of hazardous waste"; 444.84335 "new or expanding facility for the management of hazardous waste"; 444.84375; 444.850(2); 444.8546 "facility for the management of hazardous waste"; 444.8565 "hazardous waste" except 444.8565(b); 444.861 "used oil"; 444.8618; 444.86325(1)(a); 444.86325(1)(b); 444.8671; 444.8675(1)-(4); and 444.8688.

H. Where Are the Revised State Rules Different From the Federal Rules?

At NAC section 86325.1(f), Nevada has not adopted the Federal exemption at 40 CFR 264.1050(h) and 265.1050(g), as addressed in the final rule for Surface Coating of Automobiles and Light-Duty Trucks (69 FR 22602, April 26, 2004; Checklist 205), thus the State's regulation is more stringent than the Federal requirement. In addition, Nevada is more stringent with respect to the July 30, 2003 final rule for the Recycled Used Oil Management Standards (68 FR 44659; Checklist 203) because at NAC 86325.1(d), the State excludes 40 CFR 261.5(j) from its incorporation by reference. In contrast to the Federal code which directs conditionally-exempt small quantity generator hazardous waste mixed with used oil to be handled according to the Part 279 standards (used oil), Nevada subjects such mixed wastes to its hazardous wastes regulations. Other than the April 26, 2004 and July 30, 2003 final rules, Nevada incorporates by reference the remaining Federal rules listed in Section G; therefore, there are no significant differences between the remaining Federal rules and the revised State rules being authorized today.

There is an outstanding issue in the revised Nevada program that will not be authorized at this time. The issue is discussed in detail here in order to alert the regulated community to the potential conflict between the Federal and State programs as they currently exist. The issue concerns Nevada's adoption of a program that regulates antifreeze that is recycled and that either exhibits the toxicity characteristic of hazardous waste, or is a listed hazardous waste in the state of origin. Nevada's program requirements may be less stringent than the federal program, and therefore EPA is not authorizing Nevada's spent antifreeze recycling program at this time. Generators and recyclers of used antifreeze determined to be hazardous waste must continue to comply with the requirements of 40 CFR 261.6(b)-(d) "Requirements for Recyclable Materials" as adopted by reference by Nevada.

I. Who Handles Permits After The Authorization Takes Effect?

NDEP will issue permits for all the provisions for which it is authorized and will administer the permits it issues. Section 3006(g)(1) of RCRA gives EPA the authority to issue or deny permits or parts of permits for requirements for which the state is not authorized. Therefore, whenever EPA adopts standards under HSWA for

activities or wastes not currently covered by the authorized program, EPA may process RCRA permits in Nevada for the new or revised HSWA standards until NDEP has received final authorization for such new or revised HSWA standards. EPA and NDEP have agreed to a joint permitting process for facilities covered by both the authorized program and standards under HSWA for which the State is not yet authorized, and for handling existing EPA permits after the State receives authorization.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Nevada?

Nevada is not being authorized to operate any portion of the hazardous waste management program in Indian country. Nevada is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the following: The Confederated Tribes of the Goshute Reservation; Duckwater Shoshone Tribe; Ely Shoshone Tribe; Fort McDermitt Paiute and Shoshone Tribes; Fort Mohave Indian Tribe; Las Vegas Tribe of Paiute Indians; Lovelock Paiute Tribe; Moapa Band of Paiute Indians; Paiute-Shoshone Tribe of the Fallon Reservation and Colony; Pyramid Lake Paiute Tribe; Reno-Sparks Indian Colony; Shoshone-Paiute Tribes of Duck Valley Reservation; Summit Lake Paiute Tribe; Te-Moak Tribes of Western Shoshone Indians; Walker River Paiute Tribe; Washoe Tribe; Winnemucca Indian Colony; Yerington Paiute Tribe; and the Yomba Shoshone Tribe. This authorization action has no effect in Indian country. EPA will continue to implement and administer the RCRA program in Indian country within the State.

K. What Is Codification and Is EPA Codifying Nevada's Hazardous Waste Management Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart DD for this authorization of Nevada's program changes.

L. Statutory and Executive Order Reviews

This rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by State law. Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order (EO) 12866.

2. Paperwork Reduction Act

This rule does not impose an information collection burden under the Paperwork Reduction Act.

3. Regulatory Flexibility Act

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Because this rule approves preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act.

5. Executive Order 13132: Federalism

EO 13132 does not apply to this rule because it will not have federalism implications (*i.e.*, substantial direct effects on the State, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government) as described in EO 13132.

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

EO 13175 does not apply to this rule because it will not have tribal implication (*i.e.*, substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes).

7. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

This rule is not subject to EO 13045 because it is not economically significant and it is not based on health or safety risks.

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

This rule is not subject to EO 13211 because it is not a significant regulatory action as defined in EO 12866.

9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, section 12(d) of the National Technology Transfer and Advance Act does not apply to this rule.

10. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective on April 27, 2009.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: January 29, 2009.

Laura Yoshii,

Acting Regional Administrator, Region 9.

[FR Doc. E9-4121 Filed 2-25-09; 8:45 am]

BILLING CODE 6560-50-P

Proposed Rules

Federal Register

Vol. 74, No. 37

Thursday, February 26, 2009

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

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–1220]

RIN 1625–AA00

Safety Zone; Blue Water Resort and Casino APBA National Tour Rounds 1 & 2; Colorado River, Parker, AZ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone within the Lake Moolvalya region of the navigable waters of the Colorado River in Parker, Arizona for the Blue Water Resort and Casino APBA National Tour Rounds 1 and 2. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before March 30, 2009 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2008–1220 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 proposed rule, call Petty Officer Kristen Beer, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at (619) 278–7262. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–1220), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, 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–2008–1220” 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 and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG–2008–1220 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the U.S. Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101 between 8 a.m. and 3 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 notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

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

Background and Purpose

The RPM Racing Enterprises is sponsoring the Blue Water Resort and Casino APBA National Tour Rounds 1 and 2, which is held on the Lake Moolvalya region on the Colorado River in Parker, Arizona. This temporary

safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and other users of the waterway. This event involves powerboats racing along a circular course. The size of the boats varies from ten to 16 feet in length. Approximately 90 to 130 boats will be participating in this event. The sponsor will provide two patrol and rescue boats and two river closure boats.

Discussion of Proposed Rule

The Coast Guard proposes establishing a safety zone that will be enforced from 6 a.m. to 6 p.m. on May 1, 2009 through May 3, 2009. This safety zone is necessary to provide for the safety of the crews, spectators, participants, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative. The limits of this temporary safety zone are the portion of the Colorado River from Headgate Dam to 0.5 miles north of Blue Water Marina, Parker, Arizona.

Regulatory Analyses

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

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the established safety zone during the specified times unless authorized to do so by the Captain of the Port or his designated representative.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit

organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Colorado River from 6 a.m. to 6 p.m. on May 1, 2009 through May 3, 2009.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone would apply to the entire width of the river, traffic would be allowed to pass through the zone with the permission of the Coast Guard patrol commander. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM).

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Kristen Beer, USCG, Waterway Management, U.S. Coast Guard Sector San Diego at (619) 278–7262. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination under the Instruction that this action is not likely to have a significant effect on the human environment. An environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a new temporary zone § 165.T11–138 to read as follows:

§ 165.T11–138 Safety Zone; Blue Water Resort and Casino APBA National Tour Rounds 1 & 2; Colorado River, Parker, AZ.

(a) *Location.* The limits of this temporary safety zone are the portion of the Colorado River from Headgate Dam to 0.5 miles north of the Bluewater Marine in Parker, Arizona.

(b) *Enforcement Period.* This section will be enforced from 6 a.m. to 6 p.m. on May 1, 2009 through May 3, 2009. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *Designated representative*, means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM may be contacted on VHF–FM Channel 83.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: February 3, 2009.

T.H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. E9–4069 Filed 2–25–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–1221]

RIN 1625–AA00

Safety Zone; Blue Water Resort and Casino Spring Classic; Colorado River, Parker, AZ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone within the Lake Moolvalya region of the navigable waters of the Colorado River in Parker, Arizona for the Blue Water Resort and Casino Spring Classic. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before March 30, 2009 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2008–1221 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 proposed rule, call Petty Officer Kristen Beer, USCG, Waterways Management, U.S.

Coast Guard Sector San Diego at (619) 278-7262. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-1221), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, 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-2008-1221" 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 and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2008-1221 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation

West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the U.S. Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101 between 8 a.m. and 3 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 notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

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

Background and Purpose

The Southern California Speedboat Club is sponsoring the Blue Water Resort and Casino Spring Classic, which is held on the Lake Moolvalya region on the Colorado River in Parker, Arizona. This proposed temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and other users of the waterway. This event involves powerboats racing along a circular course. The size of the boats varies from ten to 21 feet in length. Approximately 70 to 100 boats will be participating in this event. The sponsor will provide two patrol and rescue boats and two river closure boats.

Discussion of Proposed Rule

The Coast Guard proposes establishing a safety zone that will be enforced from 6 a.m. to 6 p.m. on April 17, 2009 through April 19, 2009. This safety zone is necessary to provide for the safety of the crews, spectators, participants, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring with this safety zone unless authorized by the Captain of the Port, or his designated representative. The limits of this temporary safety zone are the portion of

the Colorado River from Headgate Dam to 0.5 miles north of Blue Water Marina, Parker, Arizona.

Regulatory Analyses

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

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the established safety zone during the specified times unless authorized to do so by the Captain of the Port or his designated representative.

Small Entities

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

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

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Colorado River from 6 a.m. to 6 p.m. on April 17, 2009 through April 19, 2009.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone would apply to the entire width of the river, traffic would be allowed to pass through the zone with the permission of the Coast Guard patrol commander. Before the effective period,

the Coast Guard will publish a local notice to mariners (LNM).

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Kristen Beer, USCG, Waterway Management, U.S. Coast Guard Sector San Diego at (619) 278–7262. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise

have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination under the Instruction that this action is not likely to have a significant effect on the human environment. An environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a new temporary zone § 165.T11–136 to read as follows:

§ 165.T11–136 Safety Zone; Blue Water Resort and Casino Spring Classic; Colorado River, Parker, AZ.

(a) *Location.* The limits of this temporary safety zone are the portion of the Colorado River from Headgate Dam to 0.5 miles north of the Bluewater Marine in Parker, Arizona.

(b) *Enforcement Period.* This section will be enforced from 6 a.m. to 6 p.m. on April 17, 2009 through April 19, 2009. If the event concludes prior to the scheduled termination time, the Captain

of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *designated representative*, means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander. The Patrol Commander may be contacted on VHF-FM Channel 83.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: February 11, 2009.

T.H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. E9-4070 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-1260]

RIN 1625-AA00

Safety Zone; AVI May Fireworks Display; Laughlin, NV

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a safety zone, on the navigable waters of the lower Colorado River, Laughlin, NV, in support of a fireworks display near the AVI Resort and Casino. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from

entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before March 30, 2009 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG-2008-1260 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 proposed rule, call Petty Officer Shane Jackson, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at (619) 278-2767. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-1260), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, 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-2008-1260" 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 and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2008-1260 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the U.S. Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101 between 8 a.m. and 2 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

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

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be

beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard is establishing a temporary safety zone on the navigable waters of the Lower Colorado River, Laughlin, NV in support of a fireworks show in the navigation channel of the Lower Colorado River, Laughlin, NV. The fireworks show is being sponsored by AVI Resort and Casino. The safety zone is set at a 1000 foot radius around the firing site. This temporary safety zone is necessary to provide for the safety of the show's crew, spectators, participants of the event, participating vessels, and other vessels and users of the waterway.

Discussion of Proposed Rule

The Coast Guard proposes a safety zone that would be enforced from 8 p.m. to 9:45 p.m. on May 24, 2009. The limit of the safety zone is to include all navigable waters within 1,000 feet of the firing location adjacent to the AVI Resort and Casino centered in the channel between Laughlin Bridge and the northwest point of AVI Resort and Casino Cove in position: 35°00'45" N, 114°38'16" W.

This safety zone is necessary to provide for the safety of the crews, spectators, and participants of the event and to protect other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

U.S. Coast Guard personnel would enforce this safety zone. Other Federal, State, or local agencies may assist the Coast Guard, including the Coast Guard Auxiliary.

Regulatory Analyses

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

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Although the safety zone will restrict boating traffic within the

navigable waters of the Lower Colorado River, Laughlin, NV, the effect of this regulation will not be significant as the safety zone will encompass only a portion of the waterway and will be very short in duration. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing. As such, the Coast Guard expects the economic impact of this rule to be minimal.

Small Entities

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

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

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the region of the lower Colorado River adjacent to AVI Resort and Casino from 8 p.m. to 9:45 p.m. on May 24, 2009.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone only encompasses a portion of the waterway, it is short in duration at a relatively late hour when commercial traffic is low, and the Captain of the Port may authorize entry into the zone, if necessary. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM) and will issue broadcast notice to mariners (BNM) alerts via marine channel 16 VFH before the safety zone is enforced.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that

they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Shane Jackson, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at (619) 278–7267. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from

Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast

Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination under the Instruction that this action is not likely to have a significant effect on the human environment. An environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 122, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. A new temporary safety zone § 165.T11–147 is added to read as follows:

§ 165.T11–147 Safety zone; AVI May Fireworks Display; Laughlin, Nevada.

(a) *Location.* The limits of the proposed safety zone are as follows: will include all navigable waters within 1000 feet of the firing location adjacent to the AVI Resort and Casino centered in the channel between Laughlin Bridge and the northwest point of AVI Resort and Casino Cove in position: 35°00'45" N, 114°38'16" W.

(b) *Enforcement Period.* This section will be enforced from 8 p.m. to 9:45 p.m. on May 24, 2009. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *designated representative*, means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM may be contacted on VHF–FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: February 6, 2009.

T.H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. E9–4071 Filed 2–25–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–1253]

RIN 1625–AA00

Safety Zone; Dutch Shoe Regatta; San Diego Harbor, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone within the navigable waters of the San Diego Harbor in San Diego, California for the Dutch Shoe Regatta. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other users and vessels of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before March 30, 2009 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–

2008–1253 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 proposed rule, call Petty Officer Kristen Beer, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at (619) 278–7262. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–1253), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, 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–2008–1253” 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 and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG–2008–1253 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the U.S. Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 3 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 notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

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

Background and Purpose

The San Diego Yacht Club is sponsoring the Dutch Shoe Regatta, which is held in the San Diego Harbor in San Diego, CA. This temporary safety zone is necessary to provide for the

safety of the participants, crew, spectators, sponsor vessels, participating vessels, and other users and vessels of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

Discussion of Proposed Rule

The Coast Guard proposes establishing a safety zone that would be enforced from 11 a.m. to 3 p.m. on July 24, 2009. The limits of the safety zone would be encompassed by the following coordinates: 32°42.48′ N, 117°14.00′ W; 32°42.17′ N, 117°14.08′ W; 32°42.96′ N, 117°13.60′ W; 32°42.19′ N, 117°13.50′ W.

The safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, participating vessels, and other users and vessels of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

Regulatory Analyses

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

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size, location and duration of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during specified times.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not

dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the San Diego Harbor from 11 a.m. to 3 p.m. on July 24, 2009.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only 3 hours early in the day when vessel traffic is low. Although the safety zone would apply to the entire width of the harbor, traffic would be allowed to pass through the zone with the permission of the Coast Guard patrol commander. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM) and will issue broadcast notice to mariners (BNM) alerts via marine channel 16 VHF before the safety zone is enforced.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Kristen Beer, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at (619) 278-7262. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination under the Instruction that this action is not likely to have a significant effect on the human environment. An environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add new § 165.T11–140 to read as follows:

§ 165.T11–140 Safety Zone; Dutch Shoe Regatta; San Diego Harbor, San Diego, CA.

(a) *Location.* The limits of the safety zone would be encompassed by the following coordinates: 32°42.48' N, 117°14.00' W; 32°42.17' N, 117°14.08' W; 32°41.96' N, 117°13.60' W; 32°42.19' N, 117°13.50' W.

(b) *Enforcement Period.* This safety zone will be enforced from 11 a.m. to 3 p.m. on July 24, 2009. If the need for the safety zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone.

(c) *Definitions.* The following definition applies to this section: *Designated representative*, means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Sector San Diego Communications Center (COMCEN). The COMCEN may be contacted via VHF–FM channel 16 or (619) 278–7033.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: February 11, 2009.

T.H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. E9–4073 Filed 2–25–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R09–RCRA–2008–0726; FRL–8771–7]

Nevada: Proposed Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Nevada has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Nevada. In the “Rules and Regulations” section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble of the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment.

DATES: Comments must be received on or before March 30, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–RCRA–2008–0726 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* downey.jennifer@epa.gov.
- *Fax:* (415) 947–3533 (prior to faxing, please notify the EPA contact listed below).

- *Mail:* Send written comments to Jennifer Downey, Region IX (WST–2), 75 Hawthorne Street, San Francisco, CA 94105.

- *Hand Delivery:* Jennifer Downey, Region IX (WST–2), 75 Hawthorne Street, San Francisco, CA 94105. Such deliveries are only accepted during the office’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R09–RCRA–2008–0726. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov> including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about EPA’s public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>).

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy.

You may view and copy Nevada’s application at the following addresses: Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 901 So.

Stewart Street, Ste. 4001, Carson City, NV 89701, Phone: 775/687-4670, Business Hours: 9 a.m. to 5 p.m. Monday through Friday. U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/947-4406, Business Hours: 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Monday through Thursday.

FOR FURTHER INFORMATION CONTACT: Jennifer Downey, Region IX (WST-2), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/972-3342. E-mail: downey.jennifer@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the

“Rules and Regulations” section of this **Federal Register**.

Dated: January 29, 2009.

Laura Yoshii,

Acting Regional Administrator, Region 9.

[FR Doc. E9-4122 Filed 2-25-09; 8:45 am]

BILLING CODE 6560-50-P

Notices

Federal Register

Vol. 74, No. 37

Thursday, February 26, 2009

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

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration (ITA).

Title: Internet Web site Forms.

Form Number(s): ITA-4148P.

OMB Control Number: 0625-0237.

Type of Request: Regular submission.

Burden Hours: 3,559.

Number of Respondents: 21,335.

Average Hours per Response: 5-10 minutes.

Needs and Uses: The International Trade Administration's (ITA) U.S. Commercial Service (CS) is mandated by Congress to broaden and deepen the U.S. exporter base. The CS accomplishes this by providing counseling, programs and services to help U.S. firms export and conduct business in overseas markets. This information collection enables the CS to provide appropriate export services to U.S. exporters.

The dissemination of international market information and potential business opportunities for U.S. exporters are critical components of the Commercial Service's export assistance programs and services. U.S. companies conveniently access and indicate their interest in these services by completing and submitting the appropriate forms via ITA and CS U.S. Export Assistance Center Web sites.

The forms ask U.S. exporters standard questions about their company details, export experience, information about the products or services they wish to export and exporting goals. A few questions are tailored to a specific program type and will vary slightly with

each program. CS staff use this information to gain an understanding of client's needs and objectives so that they can provide appropriate and effective export assistance tailored to an exporter's particular requirements.

U.S. companies that are interested in obtaining export assistance or participating in a CS export-related program will provide the CS with information about:

- The export-related programs and services that they wish to participate in;
- Company background such as product/service to be exported, industry, company size, export experience, company contact information, and client name and contact information;

- Exporting goals and objectives such as markets of interest, industries, potential end-users; and
- Previous contact information with CS, such as the U.S. Export Assistance Center(s), CS staff, etc.

The collected information will be used by CS staff in counseling and assisting clients and in fulfilling U.S. firms' requests for export assistance services and programs.

The CS requests approval for the following nine information collection instruments:

Currently Approved

- Preliminary Consultation.
- Local Event.
- ShowTime.
- Market Express Bulletin.
- Export.gov Registration (current and new versions).
- Reporting International Success.

New

- Industry Focused Program.
- Featured U.S. Exporter.
- Business Service Providers.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Wendy L. Liberante, (202) 395-3647.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to Wendy L. Liberante, OMB Desk Officer, (202) 395-395-3647 or via the Internet at Wendy_L_Liberante@omb.eop.gov.

Dated: February 20, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-4061 Filed 2-25-09; 8:45 am]

BILLING CODE 3510-FF-P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Quarterly Survey of State and Local Government Tax Revenues.

Form Number(s): F-71, F-72, F-73.

OMB Control Number: 0607-0112.

Type of Request: Regular submission.

Burden Hours: 7,159.

Number of Respondents: 7,108.

Average Hours per Response: 15 minutes.

Needs and Uses: The U.S. Census Bureau requests an extension of the current expiration date of the Quarterly Survey of State and Local Government Tax Revenues to ensure accurate collection of information about state and local government tax collections. These tax collections, amounting to nearly \$1.3 trillion annually, constitute approximately 47 percent of all governmental revenues. Quarterly measurement of, and reporting on, these massive fund flows provides valuable insight into trends in the national economy and that of individual states. Information collected on the type and quantity of taxes collected gives comparative data on how the various levels of government fund their public sector obligations.

The Census Bureau uses the three forms covered by this statement to collect state and local government tax data for this long established data series. The Bureau of Economic Analysis, the Federal Reserve Board, the Department of Treasury, the Department of Housing

and Urban Development and others rely on these data to provide the most current information on the financial status of state and local governments. These data are included in the quarterly estimates of National Income and Product Accounts developed by the Bureau of Economic Analysis, and the Department of Housing and Urban Development has used the property tax data as one of nine cost indicators for developing Section 8 rent adjustments. Legislators, policy makers, administrators, analysts, economists, and researchers use these data to monitor trends in public sector revenues. Journalists, teachers, and students use these data as well.

Tax collection data are used to measure economic activity for the Nation as a whole, as well as for comparison among the various states. These data are also useful in comparing the mix of taxes employed by individual states, and in determining the revenue raising capacity of different types of taxes in different state-areas.

Affected Public: State, local or tribal government.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395-7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dhynek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202-395-7245) or e-mail (bharrisk@omb.eop.gov).

Dated: February 20, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-4063 Filed 2-25-09; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Extension of Time Limits for Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 26, 2009.

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski or Summer Avery, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1395 and (202) 482-4052, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 2007, the Department of Commerce (Department) published the initiation of an administrative review of fresh garlic from the People's Republic of China. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 73315 (December 27, 2007). On January 2, 2008, the Department published the initiation of new shipper reviews of fresh garlic from the People's Republic of China. *See Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 73 FR 161 (January 2, 2008). On July 23, 2008, the Department aligned the new shipper reviews with the administrative review, in accordance with 19 CFR 351.214(j). *See Memorandum to All Interested Parties from the Department Re: The Alignment of the New Shipper Reviews with the 13th Antidumping Duty Administrative Review of Fresh Garlic from the People's Republic of China* (July 23, 2008), which is on file in the Central Records Unit, room 1117 of the main Commerce building. As such, the time limits for the new shipper reviews were aligned with those for the administrative review. On December 8, 2008, the Department published the preliminary results of this antidumping duty administrative review and the new shipper reviews. *See Fresh Garlic from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative and New Shipper Reviews and Intent to Rescind, In Part, the Antidumping Duty Administrative and New Shipper Reviews*, 73 FR 74462

(December 8, 2008). The period of review for this administrative review and the new shipper reviews is November 1, 2006 through October 31, 2007. The final results are currently due on April 7, 2009.

Extension of Time Limits for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), provides that the Department will issue the final results in an administrative review of an antidumping duty order within 120 days after the date on which the preliminary results are published. However, the Department may extend the deadline for completion of the final results of an administrative review to 180 days if it determines it is not practicable to complete the review within the foregoing time period. *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2). Section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2) also provide that the Department may extend the deadlines in a new shipper review if we determine that the case is extraordinarily complicated.

The Department determines that it is not practicable to complete the final results of the aligned administrative review and new shipper reviews by the current deadline of April 7, 2009. Specifically, the Department requires additional time to conduct sales and factors of production verifications and to analyze issues it considers to be extraordinarily complicated, including, but not limited to, the *bona fides* nature of certain transactions and surrogate financial ratios. Thus, we are fully extending the time for completion of the final results of the administrative review and new shipper reviews to no later than June 6, 2009, a Saturday. Where a statutory deadline falls on a weekend, federal holiday, or any other day when the Department is closed, the Department will continue its longstanding practice of issuing a determination on the next business day. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005). Accordingly, in this instance, the due date for the final results will now be no later than June 8, 2009.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 20, 2009.

John M. Andersen,

*Acting Deputy Assistant Secretary for
Antidumping and Countervailing Duty
Operations.*

[FR Doc. E9-4132 Filed 2-25-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-929

Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China

AGENCY: Import Administration,
International Trade Administration,
Department of Commerce.

EFFECTIVE DATE: February 26, 2009.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the "Department") and the International Trade Commission ("ITC"), the Department is issuing an antidumping duty order on small diameter graphite electrodes from the People's Republic of China ("PRC").

FOR FURTHER INFORMATION CONTACT:
Magd Zalok or Drew Jackson, AD/CVD
Operations, Office 4, Import
Administration, International Trade
Administration, U.S. Department of
Commerce, 14th Street and Constitution
Avenue, NW, Washington, DC, 20230;
telephone: (202) 482-4162 and 482-
4406, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the "Act"), on January 14, 2009, the Department published the *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049 (January 14, 2009) ("*Final Determination*").

On February 19, 2009, the ITC notified the Department of its affirmative final determination of material injury to a U.S. industry. See *Small Diameter Graphite Electrodes from China*, Investigation No. 731-TA-1143 (Final), USITC Publication 4062 (February 2009).

Scope of the Order

The merchandise covered by this order includes all small diameter graphite electrodes of any length, whether or not finished, of a kind used in furnaces, with a nominal or actual diameter of 400 millimeters (16 inches)

or less, and whether or not attached to a graphite pin joining system or any other type of joining system or hardware. The merchandise covered by this order also includes graphite pin joining systems for small diameter graphite electrodes, of any length, whether or not finished, of a kind used in furnaces, and whether or not the graphite pin joining system is attached to, sold with, or sold separately from, the small diameter graphite electrode. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes are most commonly used in primary melting, ladle metallurgy, and specialty furnace applications in industries including foundries, smelters, and steel refining operations. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes that are subject to this order are currently classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 8545.11.0000. The HTSUS number is provided for convenience and customs purposes, but the written description of the scope is dispositive.

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of exporters that account for a significant proportion of small diameter graphite electrodes, we extended the four-month period to no more than six months. See *Small Diameter Graphite Electrodes From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part*, 73 FR 49408 (August 21, 2008) ("*Preliminary Determination*"). In this investigation, the six-month period beginning on the date of the publication of the *Preliminary Determination* (i.e., August 21, 2008) ended on February 16, 2009. Furthermore, section 737 of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 733(d) of the Act, we have instructed U.S. Customs and Border Protection ("CBP") to terminate suspension of liquidation and to liquidate without regard to

antidumping duties (i.e., release all bonds and refund all cash deposits), unliquidated entries of small diameter graphite electrodes from the PRC entered, or withdrawn from warehouse, for consumption after February 16, 2009, and before the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will continue on or after the date of publication of the ITC's final injury determination in the **Federal Register**.

Antidumping Duty Order

On February 19, 2009, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the PRC. Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct CBP to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of small diameter graphite electrodes from the PRC. Except for the entries noted above,¹ these antidumping duties will be assessed on all unliquidated entries of small diameter graphite electrodes from the PRC entered, or withdrawn from the warehouse, for consumption on or after August 21, 2008, the date on which the Department published its *Preliminary Determination*. See *Preliminary Determination*.

The ITC also notified the Department that it made a negative critical circumstances determination in this investigation. Therefore, we will instruct CBP to lift suspension, release any bond or other security, and refund any cash deposit made to secure the payment of antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption prior to August 21, 2008 (i.e., during the 90 days prior to the date of publication of the *Preliminary Determination*).

Effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average

¹ Namely, entries of small diameter graphite electrodes from the PRC entered, or withdrawn from warehouse, for consumption after February 16, 2009, and before the date of publication of the ITC's final injury determination in the **Federal Register**.

antidumping duty margins listed below. “PRC-wide” rate applies to all exporters listed. The weighted-average dumping margins are as follows:
 See section 735(c)(3) of the Act. The of subject merchandise not specifically

Exporter & Producer	Weighted-Average Margin
Fushun Carbon Co., Ltd., Produced by: Fushun Carbon Co., Ltd.	159.64%
Fangda Carbon New Material Co., Ltd., Produced by: Fangda Carbon New Material Co., Ltd.	159.64%
Beijing Fangda Carbon Tech Co., Ltd., Produced by: Chengdu Rongguang Carbon Co., Ltd.; Fangda Carbon New Material Co., Ltd.; or Fushun Carbon Co., Ltd.	159.64%
Chengdu Rongguang Carbon Co., Ltd., Produced by: Chengdu Rongguang Carbon Co., Ltd.	159.64%
Jilin Carbon Import and Export Company, Produced by: Sinosteel Jilin Carbon Co., Ltd.	132.90%
Guanghan Shida Carbon Co., Ltd., Produced by: Guanghan Shida Carbon Co., Ltd.	132.90%
Nantong River-East Carbon Joint Stock Co., Ltd., Produced by: Nantong River-East Carbon Co., Ltd.; or Nantong Yangzi Carbon Co., Ltd.	132.90%
Xinghe County Muzi Carbon Co. Ltd., Produced by: Xinghe County Muzi Carbon Co., Ltd.	132.90%
Brilliant Charter Limited, Produced by: Nantong Falter New Energy Co., Ltd.; or Shanxi Jinneng Group Co., Ltd.	132.90%
Shijiazhuang Huanan Carbon Factory, Produced by: Shijiazhuang Huanan Carbon Factory	132.90%
Shenyang Jinli Metals & Minerals Imp & Exp Co., Ltd., Produced by: Shenyang Jinli Metals & Minerals Imp. & Exp. Co., Ltd.	132.90%
Shanghai Jinneng International Trade Co., Ltd., Produced by: Shanxi Jinneng Group Datong Energy Development Co., Ltd.	132.90%
Dalian Thrive Metallurgy Import and Export Co., Ltd., Produced by: Linghai Hongfeng Carbon Products Co., Ltd.; Tianzhen Jintian Graphite Electrodes Co., Ltd.; Jiaozuo Zhongzhou Carbon Products Co., Ltd.; Heilongjiang Xinyuan Carbon Products Co., Ltd.; Xuzhou Jianglong Carbon Manufacture Co., Ltd.; or Xinghe Xinyuan Carbon Products Co., Ltd.	132.90%
GES (China) Co., Ltd., Produced by: Shanghai GC Co., Ltd.; Fushun Jinli Petrochemical Carbon Co., Ltd.; Xinghe County Muzi Carbon Plant and Linyi County Lubei Carbon Co., Ltd. Shandong Province	132.90%
Qingdao Haosheng Metals & Minerals Imp & Exp Co., Ltd., Produced by: Sinosteel Jilin Carbon Co., Ltd.	132.90%
PRC-Wide Entity	159.64%

This notice constitutes the antidumping duty order with respect to small diameter graphite electrodes from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Department’s Central Records Unit, Room 1117 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: February 20, 2009.

Ronald K. Lorentzen,
Acting Assistant Secretary for Import Administration.

[FR Doc. E9-4126 Filed 2-25-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct an administrative review of one antidumping duty order with a January anniversary date, the antidumping duty order on wooden bedroom furniture from the People’s Republic of China (PRC). The

Department received no other requests to conduct administrative reviews of antidumping or countervailing duty orders or findings with a January anniversary date. In accordance with the Department’s regulations, we are initiating this administrative review.

EFFECTIVE DATE: February 26, 2009.

FOR FURTHER INFORMATION CONTACT: Jeffrey Pedersen or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, telephone: (202) 482-2769 or (202) 482-4406, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department received timely requests, in accordance with 19 CFR 351.213(b), for an administrative review of the antidumping duty order on wooden bedroom furniture from the PRC (administrative review of wooden bedroom furniture) covering multiple entities. The Department is now initiating an administrative review of the order covering those entities.

Notice of No Sales

Under 19 CFR 351.213(d)(3), the Department may rescind a review where there are no exports, sales, or entries of subject merchandise during the relevant period of review (POR) listed below. If a producer or exporter named in this notice of initiation had no exports,

sales, or entries during the POR, it should notify the Department of this fact by the due date for responding to the Department’s Quantity and Value Questionnaire (“Q&V”). See <http://ia.ita.doc.gov/download/prc-wbf/index.html> for a copy of the Q&V questionnaire. The Department will consider rescinding the review only if the producer or exporter, as appropriate, submits a properly filed and timely statement certifying that it had no exports, sales, or entries of subject merchandise during the POR.¹ All submissions must be made in accordance with 19 CFR 351.303 and are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Six copies of the submission should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy of each request must be served on every party on the Department’s service list.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual

¹ Producers or exporters may also fulfill this requirement by submitting a properly filed and timely Q&V questionnaire response that indicates that the entity or entities had no exports, sales, or entries of subject merchandise during the POR.

dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2)(B) of the Act permits the Department to examine exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can be reasonably examined. Due to the large number of firms for which an administrative review of wooden bedroom furniture has been requested, and the Department's experience regarding the resulting administrative burden of reviewing each company for which a request has been made, the Department is considering exercising its authority to limit the number of respondents selected for review in accordance with the Act.

In the event that the Department limits the number of respondents for individual examination in the administrative review of wooden bedroom furniture, the Department intends to select respondents based on information obtained from the companies requested for review regarding their exports or shipments to the United States of wooden bedroom furniture during the period January 1, 2008, through December 31, 2008. Therefore, in advance of the issuance of the antidumping questionnaire, we will be requiring all parties for whom a review has been requested to respond to a Q&V questionnaire. The Department will send Q&V questionnaires to the companies named in this initiation notice. In addition, the Q&V questionnaire will be available on the Department's website at <http://ia.ita.doc.gov/download/rc-wbf/index.html> on the date of publication of this notice. The responses to the Q&V questionnaire must be received by the Department by the due date listed in the questionnaire. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, the Department may not grant any extensions for the submission of responses to the Q&V questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an

exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994). In accordance with the separate-rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate-rate status in the antidumping duty administrative review of wooden bedroom furniture from the PRC must timely file a Q&V questionnaire response, and timely file, as appropriate, either a separate-rate application or certification, as described below. Entities for which a review was requested and that were assigned a separate rate in the most recently completed segment of this proceeding in which they participated must timely file a Q&V questionnaire response and certify that they continue to meet the criteria for obtaining a separate rate. The Separate-Rate Certification Form will be available on the Department's website at <http://ia.ita.doc.gov/nme/nme-sep-rate.html> on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the "Instructions for Filing the Certification" in the Separate-Rate Certification. Separate-Rate Certifications must be received by the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of this proceeding must timely file a Q&V questionnaire response and a Separate-Rate Status Application to demonstrate eligibility for a separate rate in this proceeding. The Separate-Rate Status Application will be available on the Department's website at [http://ia.ita.doc.gov/nme/nme-sep-](http://ia.ita.doc.gov/nme/nme-sep-rate.html)

[rate.html](#) on the date of publication of this **Federal Register** notice. In responding to the Separate Rate-Status Application, refer to the instructions contained in the application. Separate-Rate Status Applications must be received by the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate-Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Notification

This notice constitutes public notification to all firms for which an administrative review of wooden bedroom furniture has been requested and that are seeking separate rate status in that review, that they must submit a Separate-Rate Status Application or Certification (as appropriate) as described above, and a complete response to the Q&V questionnaire within the time limits established in this notice of initiation of administrative review in order to receive consideration for separate-rate status. In other words, the Department will not give consideration to any Separate-Rates Certification or Separate-Rate Status Application made by parties who fail to timely respond to the Q&V questionnaire or fail to timely submit the requisite Separate-Rate Certification or Application. All information submitted by respondents in this administrative review is subject to verification. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, the Department may not grant any extensions of the deadlines for these submissions. As noted above, the Separate-Rate Certification, the Separate-Rate Status Application, and the Q&V questionnaire will be available on the Department's website on the date of publication of this notice in the **Federal Register**. The Separate-Rate Certification and the Separate-Rate Status Application will be available on the Department's website at <http://ia.ita.doc.gov/nme/nme-sep-rate.html>. The Q&V questionnaire will be available on the Department's website at <http://ia.ita.doc.gov/download/prc-wbf/index.html>.

Initiation of Review:

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating an administrative review of the following antidumping duty order. We intend to

issue the final results of this review not later than January 31, 2010.

Antidumping Duty Proceedings	Period to be Reviewed
The People's Republic of China: Wooden Bedroom Furniture ² . A-570-890.	1/1/08 - 12/31/08

²If one of the named companies does not qualify for a separate rate, all other exporters of wooden bedroom furniture from the PRC that have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

- Ace Furniture & Crafts Ltd. (a.k.a. Deqing Ace Furniture and Crafts Limited)
- Alexandre International Corp.,* Southern Art Development Ltd.,* Alexandre Furniture (Shenzhen) Co., Ltd.,* Southern Art Furniture Factory*
- Art Heritage International, Ltd.,* Super Art Furniture Co., Ltd.,* Artwork Metal & Plastic Co., Ltd.,* Jibson Industries Ltd.,* Always Loyal International*
- Asia Building Materials Limited
- Baigou Crafts Factory of Fengkai*
- Best King International Ltd.*
- Billy Wood Industrial (Dong Guan) Co., Ltd.,* Great Union Industrial (Dongguan) Co., Ltd.,* Time Faith Ltd.*
- BNBM Co., Ltd. (aka Beijing New Materials Co., Ltd.)*
- Brother Furniture Manufacture Co., Ltd.
- C.F. Kent Co., Inc., C.F. Kent Hospitality, Inc., Shanghai Kent Furniture Co., Ltd., Shanghai Hospitality Product Mfg., Co., Ltd.
- Changshu HTC Import & Export Co., Ltd.*
- Cheng Meng Furniture (PTE) Ltd.,* Cheng Meng Decoration & Furniture (Suzhou) Co., Ltd.*
- Chuan Fa Furniture Factory*
- Classic Furniture Global Co., Ltd.*
- Clearwise Co., Ltd.*
- COE Ltd.*
- Contact Co., Ltd.
- Dalian Guangming Furniture Co., Ltd.*
- Dalian Huafeng Furniture Co., Ltd.*
- Dalian Pretty Home Furniture*
- Decca Furniture Ltd., aka Decca*
- Denny's Furniture Associates Corp., Denny's International Co., Ltd.
- Der Cheng Wooden Works of Factory*
- Der Cheng Wooden Works, Der Cheng Furniture Co., Ltd.
- Dong Guan Golden Fortune Houseware Co., Ltd.*
- Dongguan Bon Ten Furniture Co., Ltd.*
- Dongguan Cambridge Furniture Co.,* Glory Oceanic Co., Ltd.*
- Dongguan Chunsan Wood Products Co., Ltd.,* Trendex Industries Ltd.*
- Dongguan Creation Furniture Co., Ltd.,* Creation Industries Co., Ltd.*
- Dongguan Dihao Furniture Co., Ltd.*
- Dongguan Grand Style Furniture Co. Ltd.,* Hong Kong Da Zhi Furniture Co., Ltd.*
- Dongguan Great Reputation Furniture Co., Ltd.*
- Dongguan Hero Way Woodwork Co., Ltd.,* Dongguan DaZhong Woodwork Co., Ltd.,* Hero Way Enterprises Ltd.,* Well Earth International Ltd.*
- Dongguan Hua Ban Furniture Co., Ltd.*
- Dongguan Hung Sheng Artware Products Co., Ltd.,* Coronal Enterprise Co., Ltd.*
- Dongguan Kin Feng Furniture Co., Ltd.*
- Dongguan Kingstone Furniture Co., Ltd.,* Kingstone Furniture Co., Ltd.*
- Dongguan Landmark Furniture Products Ltd.*
- Dongguan Liaobushangdun Huada Furniture Factory,* Great Rich (HK) Enterprise Co. Ltd.*
- Dongguan Lung Dong Furniture Co., Ltd.,* Dongguan Dong He Furniture Co., Ltd.*
- Dongguan Mingsheng Furniture Co., Ltd.*
- Dongguan Mu Si Furniture Co., Ltd.*
- Dongguan New Technology Import & Export Co., Ltd.*
- Dongguan Qingxi Xinyi Craft Furniture Factory (Joyce Art Factory)
- Dongguan Singways Furniture Co., Ltd.*
- Dongguan Sundart Timber Products Co., Ltd.
- Dongguan Sunpower Enterprise Co., Ltd.*
- Dongguan Sunrise Furniture Co.,* Taicang Sunrise Wood Industry Co., Ltd.,* Shanghai Sunrise Furniture Co., Ltd.,* Fairmont Designs*
- Dongguan Sunshine Furniture Co., Ltd.
- Dongguan Yihaiwei Furniture Limited*
- Dongying Huanghekou Furniture Industry Co., Ltd.*
- Dream Rooms Furniture (Shanghai) Co., Ltd.*
- Eurosa (Kunshan) Co., Ltd.,* Eurosa Furniture Co., (PTE) Ltd.*
- Ever Spring Furniture Co. Ltd.,* S.Y.C Family Enterprise Co., Ltd.*
- Evershine Enterprise Co.
- Fine Furniture (Shanghai) Ltd.*
- Fortune Furniture Ltd.,* Dongguan Fortune Furniture Ltd.*
- Foshan Guanqiu Furniture Co., Ltd.*
- Fujian Lianfu Forestry Co., Ltd.,* a.k.a. Fujian Wonder Pacific Inc. (Dare Group)*
- Furnmart Ltd.*
- Fuzhou Huan Mei Furniture Co., Ltd. (Dare Group)*
- Gaomi Yatai Wooden Ware Co., Ltd.,* Team Prospect International Ltd.,* Money Gain International Co.*
- Garri Furniture (Dong Guan) Co., Ltd.,* Molabile International, Inc.,* Weei Geo Enterprise Co., Ltd.*
- Golden Well International (HK), Ltd.
- Green River Wood (Dongguan) Ltd.*
- Guangdong New Four Seas Furniture Manufacturing Ltd.*
- Guangdong Yihua Timber Industry Co., Ltd.
- Guangming Group Wumahe Furniture Co., Ltd.*
- Guangzhou Lucky Furniture Co. Ltd.*
- Guangzhou Maria Yee Furnishings Ltd.,* Pyla HK, Ltd.,* Maria Yee, Inc.*
- Hainan Jong Bao Lumber Co., Ltd.,* Jibbon Enterprise Co., Ltd.*
- Hamilton & Spill Ltd.*
- Hang Hai Woodcraft's Art Factory*
- Hong Yu Furniture (Shenzhen) Co. Ltd.
- Hualing Furniture (China) Co., Ltd.,* Tony House Manufacture (China) Co., Ltd.,* Buysell Investments Ltd.,* Tony House Industries Co., Ltd.*
- Hung Fai Wood Products Factory, Ltd.*
- Hwang Ho International Holdings Limited*
- Inni Furniture*
- Jardine Enterprise, Ltd.*
- Jiangmen Kinwai Furniture Decoration Co., Ltd.*
- Jiangmen Kinwai International Furniture Co., Ltd.*
- Jiangsu Dare Furniture Co., Ltd. (Dare Group)*

- Jiangsu Weifu Group Fullhouse Furniture Manufacturing, Corp.*
- Jiangsu XiangSheng Bedtime Furniture Co., Ltd.*
- Jiangsu Yuexing Furniture Group Co., Ltd.*
- Jiedong Lehouse Furniture Co., Ltd.*
- Kalanter (Hong Kong) Furniture Company Limited*
- King Kei Furniture Factory,* King Kei Trading Co., Ltd.,* Jiu Ching Trading Co., Ltd.*
- King Wood Furniture Co., Ltd.*
- King's Way Furniture Industries Co., Ltd.,* Kingsyear Ltd.*
- Kuan Lin Furniture (Dong Guan) Co., Ltd.,* Kuan Lin Furniture Factory,* Kuan Lin Furniture Co., Ltd.*
- Kunshan Lee Wood Product Co., Ltd.*
- Kunshan Summit Furniture Co., Ltd.*
- Kunwa Enterprise Company
- Langfang Tiancheng Furniture Co., Ltd.*
- Leefu Wood (Dongguan) Co., Ltd.,* King Rich International, Ltd.*
- Link Silver Ltd. (V.I.B.),* Forward Win Enterprises Co. Ltd.,* Dongguan Haoshun Furniture Ltd.*
- Locke Furniture Factory,* Kai Chan Furniture Co., Ltd.,* Kai Chan (Hong Kong) Enterprise Ltd.,* Taiwan Kai Chan Co., Ltd.*
- Longrange Furniture Co., Ltd.*
- Macau Youcheng Trading Co.,* Zhongshan Youcheng Wooden Arts & Crafts Co., Ltd.*
- Meikangchi (Nantong) Furniture Company Ltd.*
- MoonArt Furniture Group, MoonArt International Inc.
- Nanhai Baiyi Woodwork Co., Ltd.*
- Nanhai Jiantai Woodwork Co., Ltd.,* Fortune Glory Industrial Ltd. (H.K. Ltd.)*
- Nanjing Jardine Enterprise Ltd.
- Nanjing Nanmu Furniture Co., Ltd.*
- Nantong Dongfang Orient Furniture Co., Ltd.*
- Nantong Yangzi Furniture Co., Ltd.*
- Nantong Yushi Furniture Co., Ltd.*
- Nathan International Ltd.,* Nathan Rattan Factory*
- Ningbo Furniture Industries Company, Ltd.
- Ningbo Hengrun Furniture Co. Ltd.,* Ningbo Furniture Industries Limited,* Ningbo Fubang Furniture Industries Limited, Techniwood Industries Ltd.,* Techniwood (Macao Commercial Offshore) Limited, Ningbo Techniwood Furniture Industries Limited
- Orient International Holding Shanghai Foreign Trade Co., Ltd.*
- Pleasant Wave Ltd.,* Passwell Corporation*
- Passwell Wood Corporation
- Perfect Line Furniture Co., Ltd.*
- Po Ying Industrial Co.*
- Prime Wood International Co., Ltd.,* Prime Best International Co., Ltd.,* Prime Best Factory,* Liang Huang (Jiaxing) Enterprise Co., Ltd.*
- Profit Force Ltd.*
- PuTian JingGong Furniture Co., Ltd.*
- Hong Kong Jingbi Group
- Qingdao Beiyuan–Shengli Furniture Co., Ltd.,* Qingdao Beiyuan Industry Trading Co. Ltd.*
- Qingdao Liangmu Co., Ltd.*
- Qingdao Shengchang Wooden Co., Ltd.*
- Restonic (Dongguan) Furniture Ltd.,* Restonic Far East (Samoa) Ltd.*
- RiZhao SanMu Woodworking Co., Ltd.*
- Dorbest Ltd.,* Rui Feng Woodwork Co., Ltd.,* Rui Feng Lumber Development Co., Ltd.,* a.k.a. Dorbest Limited,* Rui Feng Woodwork (Dongguan) Co., Ltd.,* Rui Feng Lumber Development (Shenzen) Co., Ltd.*
- Season Furniture Manufacturing Co.,* Season Industrial Development Co.*
- Sen Yeong International Co., Ltd.,* Sheh Hau International Trading Ltd.*
- Shanghai Aosen Furniture Co., Ltd.*
- Shanghai Fangjia Industry Co., Ltd.
- Shanghai Jian Pu Export & Import Co., Ltd.*
- Shanghai Maoji Imp and Exp Co., Ltd.*
- Shanghai Season Industry & Commerce Co., Ltd.
- Sheng Jing Wood Products (Beijing) Co., Ltd.,* Telstar Enterprises Ltd.*
- Shenyang Kunyu Wood Industry Co., Ltd.*
- Shenyang Shining Dongxing Furniture Co., Ltd.*
- Shenzhen Dafuhao Industrial Development Co., Ltd.*
- Shenzhen Forest Furniture Co., Ltd.*
- Shenzhen Jiafa High Grade Furniture Co., Ltd.,* Golden Lion International Trading Ltd.*
- Shenzhen New Fudu Furniture Co., Ltd.*
- Shenzhen Shen Long Hang Industry Co., Ltd.*
- Shenzhen Tiancheng Furniture Co., Ltd.,* Winbuild Industrial Ltd.,* Red Apple Furniture Co., Ltd.,* Red Apple Trading Co., Ltd.*
- Shenzhen Wonderful Furniture Co., Ltd.*
- Shenzhen Xiande Furniture Factory*
- Shenzhen Xingli Furniture Co., Ltd.*
- Shing Mark Enterprise Co., Ltd.,* Carven Industries Limited (BVI),* Carven Industries Limited (HK),* Dongguan Zhenxin Furniture Co., Ltd.,* Dongguan Yongpeng Furniture Co., Ltd.*
- Shun Feng Furniture Co., Ltd.*
- Sino Concord International Corporation*
- Songgang Jasonwood Furniture Factory,* Jasonwood Industrial Co., Ltd. S.A.*
- Starcorp Furniture Co., Ltd., Starcorp Furniture (Shanghai) Co., Ltd., Orin Furniture (Shanghai) Co. Ltd., Shanghai Star Furniture Co., Ltd., Shanghai XingDing Furniture Industrial Co., Ltd.
- Starwood Furniture Manufacturing Co. Ltd.*
- Starwood Industries Ltd.*
- Strongson Furniture (Shenzhen) Co., Ltd.,* Strongson Furniture Co., Ltd.,* Strongson (HK) Co.*
- Sunforce Furniture (Hui -Yang) Co., Ltd.,* Sun Fung Wooden Factory,* Sun Fung Co.,* Shin Feng Furniture Co., Ltd.,* Stupendous International Co., Ltd.*
- Superwood Co., Ltd.,* Lianjiang Zongyu Art Products Co., Ltd.*
- T.J. Maxx International Co., Ltd.
- Tarzan Furniture Industries Ltd.,* Samsco Industries Ltd.*
- Teamway Furniture (Dong Guan) Co. Ltd.,* Brittomart Inc.*
- Tianjin First Wood Co., Ltd.*
- Tianjin Fortune Furniture Co., Ltd.*
- Tianjin Master Home Furniture*
- Tianjin Phu Shing Woodwork Enterprise Co., Ltd.*
- Tianjin Sande Fairwood Furniture Co., Ltd.
- Top Art Furniture Factory, Sanxiang Top Art Furniture, Ngai Kun Trading
- Top Goal Development Co.*
- Tradewinds Furniture Ltd.,* Fortune Glory Industrial Limited*
- Tradewinds International Enterprise Ltd.
- Transworld (Zhangzhou) Furniture Co. Ltd.*
- Tube–Smith Enterprise (Zhangzhou) Co., Ltd.,* Tube–Smith Enterprise (Haimen) Co., Ltd.,* Billionworth Enterprises Ltd.*
- Union Friend International Trade Co., Ltd.*
- U–Rich Furniture (Zhangzhou) Co., Ltd.,* U–Rich Furniture Ltd.*
- Wan Bao Chen Group Hong Kong Co. Ltd.*
- Wanhengtong Nueevder (Furniture) Manufacture Co., Ltd.,* Dongguan Wanengtong Industry Co., Ltd.*
- Winmost Enterprises Limited*
- Winny Overseas, Ltd.*
- Woodworth Wooden Industries (Dong Guan) Co., Ltd.*
- World Design International Co., Ltd.
- Xiamen Yongquan Sci–Tech Development Co., Ltd.*
- Xilinmen Group Co. Ltd.
- Xingli Arts & Crafts Factory of Yangchun*

- Yangchen Hengli Co., Ltd.*
- Yeh Brothers World Trade, Inc.*
- Yichun Guangming Furniture Co., Ltd.*
- Yida Co., Ltd.,* Yitai Worldwide, Ltd.,* Yili Co., Ltd.,* Yetbuild Co., Ltd.*
- Yihua Timber Industry Co., Ltd.*
- Yongxin Industrial (Holdings) Limited*
- Zhang Zhou Sanlong Wood Product Co., Ltd.*
- Zhangjiagang Daye Hotel Furniture Co., Ltd.*
- Zhangjiagang Zheng Yan Decoration Co., Ltd.*
- Zhangjiang Sunwin Arts & Crafts Co., Ltd.*
- Zhangzhou Guohui Industrial & Trade Co. Ltd.*
- Zhangzhou XYM Furniture Product Co., Ltd.
- Zhong Cheng Furniture Co., Ltd.*
- Zhong Shan Fullwin Furniture Co., Ltd.*
- Zhongshan Fookyik Furniture Co., Ltd.*
- Zhongshan Gainwell Furniture Co. Ltd.*
- Gainwell Industries Limited, Zhongshan Yiming Furniture Co., Ltd., Zhongshan Fengheng Furniture Co., Ltd., Guangdong Gainwell Industrial Furniture Co., Ltd., Northeast Lumber Co., Ltd.
- Zhongshan Golden King Furniture Industrial Co., Ltd.*
- Zhoushan For-Strong Wood Co., Ltd.*

* These companies received a separate rate in the most recent segment of this proceeding in which they participated.

Countervailing Duty Proceedings

None.

Suspension Agreements

None.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia v. United States*, 291 F.3d 806 (Fed. Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an

importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

This initiation and notice are in accordance with section 751(a) of the Act (19 USC 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: February 20, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-4129 Filed 2-25-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

(C-533-844)

Certain Lined Paper Products From India: Notice of Rescission of the 2007 Administrative Review of the Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 26, 2009.

FOR FURTHER INFORMATION CONTACT: Dennis McClure, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5973.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 2008, the Department of Commerce (“the Department”) published a notice of opportunity to request an administrative review of the countervailing duty order on certain lined paper products from India. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 51272 (September 2, 2008). On September 30, 2008, the Association of American School Paper Suppliers (the “Association”), domestic producers of certain lined paper products, requested that the Department conduct an administrative review of Blue Bird India Ltd. (“Blue Bird”) and Navneet Publications (India) Ltd.’s (“Navneet”) exports to the United States for the period of review (“POR”) January 1,

2007, through December 31, 2007. Pursuant to this request, the Department published a notice of the initiation of the administrative review of the countervailing duty order on certain lined paper products from India. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review*, 73 FR 64305 (October 29, 2008).

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation. On January 27, 2009, the Association timely withdrew its requests for a review of Blue Bird and Navneet, and no other interested party requested a review of these companies. Therefore, the Department is rescinding the administrative review of the countervailing duty order on certain lined paper from India covering the period January 1, 2007, through December 31, 2007, in accordance with 19 CFR 351.213(d)(1).

Assessment

The Department will instruct U.S. Customs and Border Protection (“CBP”) to assess countervailing duties on all appropriate entries. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the publication of this notice in the **Federal Register**.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO, in accordance with 19 CFR 351.305 and as explained in the APO. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 20, 2009.

John M. Andersen,

*Acting Deputy Assistant Secretary for
Antidumping and Countervailing Duty
Operations.*

[FR Doc. E9-4130 Filed 2-25-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Florida Keys 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 seats on the Florida Keys National Marine Sanctuary Advisory Council: Citizen at Large—Middle Keys (alternate), Diving—Upper Keys (member), Fishing—Recreational (alternate), and Tourism—Upper Keys (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 3-year terms, pursuant to the council's Charter.

DATES: Applications are due by March 23, 2009.

ADDRESSES: Application kits may be obtained from Lilli Ferguson, Florida Keys National Marine Sanctuary, 33 East Quay Rd., Key West, FL 33040. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Lilli Ferguson, Florida Keys National Marine Sanctuary, 33 East Quay Rd., Key West, FL 33040; (305) 292-0311 x245; Lilli.Ferguson@noaa.gov.

SUPPLEMENTARY INFORMATION: Per the council's Charter, if necessary, terms of appointment may be changed to provide for staggered expiration dates or member resignation mid term.

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

Dated: February 18, 2009.

Daniel J. Basta,

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

[FR Doc. E9-3976 Filed 2-25-09; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648-XN56

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene its Law Enforcement Advisory Panel (LEAP).

DATES: The meeting will convene at 1:30 p.m. on Tuesday, March 17, 2009 and conclude no later than 5 p.m.

ADDRESSES: The meeting will be held at the Royal Sonesta Hotel, 300 Bourbon St., New Orleans, LA 70130; telephone: (504) 586-0300.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Interim Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene the Law Enforcement Advisory Panel (LEAP) to review an emergency action to reduce reef fish longline and sea turtle interactions. The LEAP will also review a preliminary draft of Amendment 31 to the Reef Fish Fishery Management Plan that would include additional alternatives to reduce interactions between sea turtles and bottom longline gear in the reef fish fishery. Finally, the LEAP will receive a report of the status of recently completed management actions and scheduled activities, and possibly provide reports on individual state and federal law enforcement activities.

The LEAP consists of principal law enforcement officers in each of the Gulf States, as well as the National Oceanic and Atmospheric Administration

(NOAA) Law Enforcement, U.S. Fish and Wildlife Service (FWS), the U.S. Coast Guard, and the NOAA General Counsel for Law Enforcement. A copy of the agenda and related materials can be obtained by calling the Council office at (813) 348-1630.

Although other non-emergency issues not on the agendas may come before the LEAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the LEAP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) 5 working days prior to the meeting.

Dated: February 23, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9-4136 Filed 2-25-09; 8:45 am]

BILLING CODE 3510-22-S

CONSUMER PRODUCT SAFETY COMMISSION

Tracking Labels for Children's Products Under Section 103 of the Consumer Product Safety Improvement Act; Notice of Inquiry; Request for Comments and Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of inquiry.

SUMMARY: The Consumer Product Safety Improvement Act of 2008 requires that, effective August 14, 2009, the manufacturer of a children's product must place permanent distinguishing marks on the product and its packaging that provides certain identifying information. The United States Consumer Product Safety Commission ("Commission") is requesting comments and information about implementation of this program.

DATES: Written comments must be received by April 27, 2009.

ADDRESSES: Comments should be e-mailed to TrackingLabels@cpsc.gov. Comments also may be mailed, captioned "tracking labels," preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, Maryland 20814, or delivered to the same address (telephone (301) 504-7923). Comments may also be filed by facsimile to (301) 504-0127.

FOR FURTHER INFORMATION CONTACT: John "Gib" Mullan, Director, Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7626.

SUPPLEMENTARY INFORMATION:

A. Statutory Tracking Label Requirement

The U.S. Consumer Product Safety Commission invites comments on implementation of section 103 of the CPSIA, Tracking Labels for Children's Products. Effective August 14, 2009, section 103 of the CPSIA requires, to the extent practicable, the placement of permanent, distinguishing marks on children's products and packaging to enable:

(A) The manufacturer to ascertain the location and date of production of the product, cohort information (including the batch, run number, or other identifying characteristic), and any other information determined by the manufacturer to facilitate ascertaining the specific source of the product by reference to those marks; and

(B) The ultimate purchaser to ascertain the manufacturer or private labeler, location and date of production of the product, and cohort information (including batch, run number, or other identifying characteristic).

Public Law 110-314, sec. 103(a), 122 Stat. 3016 (August 14, 2008). Under the CPSIA, a "children's product" is "a consumer product designed or intended primarily for children 12 years of age or younger." *Id.* sec. 235(a).

Section 103 of the CPSIA also amends section 14(c) of the Consumer Product Safety Act ("CPSA") (15 U.S.C. 2063(c)), which already authorizes the Commission to require, by rule, the use of traceability labels (including permanent labels) where practicable, on any consumer product. This section allows the Commission to require labels that may include these elements:

- Manufacturer or private labeler.
- Date and place of manufacture.
- Cohort information (including batch, run number, or other identifying characteristic) of the product.

This same section provides that, where traceability labels are required by rule under CPSA section 14(c) and a covered product is privately labeled, the product must carry a code mark permitting the seller to identify the manufacturer upon a purchaser's request.

The Commission is aware of the potential public interest in implementing a tracking label approach in close consultation with other national and regional jurisdictions. To the extent that a uniform approach can be developed, consumers may be better informed in the event of a recall. Manufacturers also may have greater certainty in identifying affected products and production management costs may be reduced, with possible pricing benefits to consumers. The Commission intends to draw from responses to this request for comments in its discussions on tracking label policy with other national and regional regulators.

B. Request for Comments

Given the spectrum of options available to CPSC to implement the tracking labeling requirement for children's products, the staff is interested in comments and information regarding:

1. The conditions and circumstances that should be considered in determining whether it is "practicable" to have tracking labels on children's products and the extent to which different factors apply to including labels on packaging.

2. How permitting manufacturers and private labelers to comply with labeling requirements with or without standardized nomenclature, appearance, and arrangement of information would affect:

a. Manufacturers' ability to ascertain the location and date of production of the product; and

b. Other business considerations relevant to tracking label policy.

3. How consumers' ability to identify recalled items would be affected by permitting manufacturers and private labelers to comply with labeling requirements with or without standardized nomenclature, appearance, and arrangement of information.

4. How, and to what extent, the tracking information should be presented with some information in English or other languages, or whether presentation should be without the use of language (e.g., by alpha-numeric code with a reference key available to the public).

5. Whether there would be a substantial benefit to consumers if

products were to contain tracking information in electronically readable form (to include optical data and other forms requiring supplemental technology), and if so, in which cases this would be most beneficial and in which electronic form.

6. In cases where the product is privately labeled, by what means the manufacturer information should be made available by the seller to a consumer upon request, e.g.: Electronically via Internet, or toll-free number, or at point of sale.

7. The amount of lead time needed to comply with marking requirements if the format is prescribed.

8. Whether successful models for adequate tracking labels already exist in other jurisdictions.

A study on possible product labeling protocols "Feasibility Study: Post-manufacturing Traceability System between the PRC and the EU, November 2008" may be found at the following Web site: http://www.euchinawto.org/index.php?option=com_content&task=view&id=258&Itemid=1 (referenced here with permission). The Commission does not necessarily endorse or support any views or conclusions in that study. However, the document provides useful background for discussion of traceability labeling policies.

The Commission understands that other jurisdictions plan to request comments on tracking label policy in the near future. On its Web site <http://www.cpsc.gov>, CPSC will provide links to Internet notices by other jurisdictions as staff becomes aware of them.

Dated: February 20, 2009.

Todd Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. E9-4066 Filed 2-25-09; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors Meeting

ACTION: Notice of meeting of the Air University Board of Visitors.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.150, the Department of Defense announces that the Air University Board of Visitors' meeting will take place on Monday, April 19th,

2009, from 8 a.m.–5 p.m., and Tuesday, April 20th, 2009, from 8 a.m.–8 p.m. The meeting will be held in the Air University Commander's Conference Room located in building 836. Please contact Dr. Dorothy Reed, 334-953-5159 for further details of the meeting location.

The purpose of this meeting is to provide independent advice and recommendations on matters pertaining to the educational, doctrinal, and research policies and activities of Air University. The agenda will include topics relating to the policies, programs, and initiatives of Air University educational programs.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102-3.155 all sessions of the Air University Board of Visitors' meeting will be open to the public. Any member of the public wishing to provide input to the Air University Board of Visitors should submit a written statement in accordance with 41 CFR 102-3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed below at any time. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Air University Board of Visitors until its next meeting. The Designated Federal Officer will review all timely submissions with the Air University Board of Visitors' Board Chairperson and ensure they are provided to members of the Board before the meeting that is the subject of this notice. Additionally, any member of the public wishing to attend this meeting should contact either person listed below at least five calendar days prior to the meeting for information on base entry passes.

FOR FURTHER INFORMATION CONTACT: Dr. Dorothy Reed, Federal Designated Officer, Air University Headquarters, 55 LeMay Plaza South, Maxwell Air Force Base, Alabama 36112-6335, telephone (334) 953-5159 or Mrs. Diana Bunch, Alternate Federal Designated Officer, same address, telephone (334) 953-4547.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E9-4091 Filed 2-25-09; 8:45 am]

BILLING CODE 5001-05-P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Meeting of the Board of Visitors of Marine Corps University

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Board of Visitors of the Marine Corps University (BOV MCU) will meet the Marine Corps University Foundation members to create a working relationship in order to further the growth of the Marine Corps University. All sessions of the meeting will be open to the public.

DATES: The meeting will be held on Friday, March 20, 2009, from 9 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Sheraton Premier Hotel. The address is: 8661 Leesburg Pike at Tyson's Corner, Vienna, VA 22182.

FOR FURTHER INFORMATION CONTACT: Ms. Davi Michelle Richardson, Faculty Development Coordinator, Marine Corps University Board of Visitors, 2076 South Street, Quantico, Virginia 22134, telephone number: 703-784-2884.

Dated: February 18, 2009.

A.M. Vallandingham,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E9-4096 Filed 2-25-09; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 27, 2009.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the

information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 23, 2009.

Angela C. Arrington,

Director, Information Collections Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Evaluation of the Personnel Development to Improve Services and Results for Children with Disabilities Program.

Frequency: One time.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 242.

Burden Hours: 290.

Abstract: The U.S. Department of Education has commissioned Westat to independently evaluate the PDP program. This evaluation is divided into two studies, one focusing on the National Centers, the other on the Institutes of Higher Education (IHEs). The Study of the National Centers will examine the materials and services that have been developed and provided by the Centers as well as characteristics of the consumers. In addition, the panel of

experts will rate the quality of a sample of products and services from each Center along three dimensions: adherence to scientifically based standards, relevance to the field, and usefulness. The IHE Study will collect data through a survey of proposed Project Directors of funded and non-funded projects, as well as a collection of materials documenting improvement of funded courses of study. It will address (a) status; (b) focus; (c) entry and completion requirements; (d) grant support for students; (e) changes to the course of study since the time of the application; (f) enrollment and completion information; (g) standardized exit exam scores; (h) allocation of PDP grant funds; and (i) information about formal data collection from program.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3963. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically mailed to ICDocketMgr@ed.gov or faxed to 202-401-0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E9-4127 Filed 2-25-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, intends to extend for three years an information collection request with the Office of Management and Budget (OMB) concerning health and safety reporting requirements for DOE contractors. The information collected will be used by DOE to exercise

management oversight and control over Management and Operating (M&O) contractors of DOE's Government-Owned Contractor-Operated (GOCO) facilities, and offsite contractors. The contractor management oversight and control function concerns the ways in which DOE contractors provide goods and services for DOE organizations and activities in accordance with the terms of their contract; the applicable statutory, regulatory and mission support requirements of the Department; and regulations in the functional area covered in this request. Comments are invited on: (a) Whether the extended information collection is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB review and approval of this information collection; they also will become a matter of public record.

DATES: Comments regarding this proposed information collection must be received on or before April 27, 2009. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to: Vincent Le, HS-1.22, Germantown Building, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585-1290. Or by fax at 301-903-6081 or by e-mail at vinh.le@hq.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Copies of the proposed information collection instrument and instructions may be obtained at <http://www.hss.energy.gov/pr.html>.

Alternatively, requests for additional information or copies of the information collection instrument and instructions should be directed to the person listed above in **ADDRESSES**.

SUPPLEMENTARY INFORMATION: The information collection request contains the following: (1) *OMB No:* 1910-0300. (2) *Package Title:* Environment, Safety and Health. (3) *Type of Review:* Renewal. (4) *Purpose:* for DOE

management oversight and control over its contractors ensuring that environment, safety and health resources and requirements are managed efficiently and effectively. (5) *Respondents:* 2,469. (6) *Estimated Number of Burden Hours:* 68,136; and *Estimated Annual Cost Burden:* \$12,741,432.

Statutory Authority: Department of Energy Organization Act, Public Law No. 95-91, 91 Stat. 565 (1977).

Issued in Washington, DC on January 21, 2009.

Lesley A. Gasperow,

Director, Office of Resource Management, Office of Health, Safety and Security.

[FR Doc. E9-4106 Filed 2-25-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board Chairs

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Chairs. The Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 18, 2009, 8 a.m.-5:30 p.m. Thursday, March 19, 2009, 8 a.m.-12:30 p.m.

ADDRESSES: Augusta Marriott Hotel & Suites, Two Tenth Street, Augusta, Georgia, Phone: (706) 722-8900, Fax: (706) 823-6513.

FOR FURTHER INFORMATION CONTACT:

Catherine Alexander Brennan, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Phone: (202) 586-7711.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE-EM in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda Topics:

Wednesday, March 18, 2009

- EM Visions and Priorities—2009 and Beyond Discussion.
- Round Robin: Top Three Site-Specific Issues and EM SSAB Accomplishments.
- EM Headquarters Update and Initiatives: EM Budget and Technology Issues.

- Savannah River Site Presentations.
- EM SSAB Chairs' Roundtable Discussion.

Thursday, March 19, 2009

- Waste Disposition Presentation.
- EM SSAB Chairs' Roundtable Discussion.
- Savannah River Site E-Meeting Demonstration.

Public Participation: The EM SSAB Chairs welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Catherine Alexander Brennan at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed either before or after the meeting with the Designated Federal Officer, Catherine Alexander Brennan, at the address or telephone listed above. Individuals who wish to make oral statements pertaining to agenda items should also contact Catherine Alexander Brennan. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Catherine Alexander Brennan at the address or phone number listed above. Minutes will also be available at the following Web site: <http://www.em.doe.gov/stakepages/ssabchairs.aspx>.

Issued at Washington, DC on February 19, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9-4105 Filed 2-25-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09-61-000]

Texas Eastern Transmission, LP; Notice of Application

February 19, 2009.

Take notice that on February 4, 2009, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056, filed in the

above referenced docket an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, for an order granting the authorization (i) to construct, own, operate, and maintain a 12,500 horsepower (HP) compressor and related appurtenances necessary to facilitate interconnection with Texas Gas Transmission, LLC's (Texas Gas) Greenville Lateral at Kosciusko, Mississippi; (ii) to abandon by removal an outdated 12,500 HP compressor and related appurtenances; (iii) to utilize its existing system firm and interruptible rates for the Kosciusko Project facilities; and (iv) any waivers, authority, and further relief as may be necessary to implement the subject proposal, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Any questions concerning this application may be directed to Garth Johnson, General Manager, Rates and Certificates, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251-1642, at (713) 627-5415.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments

considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: March 12, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-4087 Filed 2-25-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No 12613-001]

Tygart, LLC.; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping Meetings, Solicitation of Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

February 19, 2009.

a. *Type of Filing:* Notice of Intent to File License Application and Commencing Licensing Proceeding.

b. *Project No.:* 12613-001.

c. *Dated Filed:* December 23, 2008.

d. *Submitted By:* Tygart, LLC.

e. *Name of Project:* Tygart Hydroelectric Project.

f. *Location:* At the Corps of Engineers' Tygart dam on the Tygart River in Barbour and Taylor Counties, West Virginia.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Clifford Phillips, Tygart, LLC, 150 North Miller Road, Suite 450 C, Fairlawn, Ohio 44333, (330) 869-8451.

i. *FERC Contact:* Michael Spencer, michael.spencer@ferc.gov, (202) 502-6093.

j. We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR Part 402; and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Tygart, LLC as the Commission's non-Federal representative for carrying out informal consultation, pursuant to

Section 7 of the Endangered Species Act, and Section 106 of the National Historic Preservation Act.

m. Tygart, LLC filed a Pre-Application Document (PAD, including a proposed process plan and schedule) with the Commission pursuant to 18 CFR 5.6 of the Commission's regulations. The Commission will issue the Scoping Document for the proposed Tygart Project on or about February 20, 2009.

n. A copy of the PAD and the scoping document are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at

FERCOnlineSupport@ferc.gov or toll free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at <http://ferc.gov/esubscribenow.htm> to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. The commencement date of this proceeding is February 21, 2009. With this notice we are soliciting comments on the PAD and the scoping document, as well as study requests. All comments on the PAD and the scoping document, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and the scoping document, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Tygart Project) and number (P-12613-001), and bear the heading "Comments on Pre-Application Document," "Study Requests," "Comments on Scoping Document 1," "Request for Cooperating Agency Status," or "Communications to and from Commission Staff." Any individual or entity interested in submitting study requests, commenting on the PAD or the scoping document, and any agency requesting cooperating status must do so by April 22, 2009.

1. Comments on the PAD and the scoping document, study requests,

requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov/docs-filing/ferconline.asp>) under the "e-filing" link. For a simpler method of submitting text-only comments, click on "Quick Comment."

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date: Monday, March 23, 2009.

Time: 6 p.m. (EST).

Location: Wingate Hotel, 350 Conference Center Way, Bridgeport, WV 26330.

Phone: (304) 808-1000.

Daytime Scoping Meeting

Date: Tuesday, March 24, 2009.

Time: 10 a.m. (EST).

Location: Same location.

The scoping document, which outlines the issues to be addressed in the environmental document, will be mailed to the individuals and entities on the Commission's mailing list. Copies of the scoping document will be available at the scoping meetings, and may be viewed on the Web at <http://www.ferc.gov>, using the "eLibrary" link. Follow the directions for accessing information in paragraph n. Depending on the extent of comments received, a revised Scoping Document may or may not be issued.

Site Visit

Tygart, LLC will conduct a tour of the proposed project site at 2 p.m. on Monday, March 23, 2009. All participants should meet in the parking lot in front of the Army Corps of Engineers' office at Tygart dam. All participants are responsible for providing photo identification to enter this Corps of Engineers' facility. Photography will be prohibited. Anyone with questions about the site visit should contact Mr. Clifford Phillips of Tygart, LLC at (330) 869-8451 on or before March 20, 2009.

Scoping Meeting Objectives

At the scoping meetings, staff will: (1) Present a proposed list of issues to be addressed in the EA; (2) review and discuss existing conditions and resource agency management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of Federal, State, and Tribal permitting and certification processes; and (5) discuss requests by any Federal or State agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and the scoping document are included in item n of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-4086 Filed 2-25-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. OR09-4-000]

Holly Refining and Marketing Company, Complainant v. Plains All American Pipeline, L.P. and Rocky Mountain Pipeline System LLC, Respondents; Notice of Complaint

February 19, 2009.

Take notice that on February 17, 2009, pursuant to sections 3(1), 9, 13(1), 15(1) and 16(1) of the Interstate Commerce Act (ICA), 49 U.S.C. App. 3(1), 9, 13(1), 15(1), and 16(1), Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, and section 343.1(a) of the Commission's Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.1(a), Holly Refining and Marketing Company (Complainant) filed a complaint against Plains All American Pipeline, L.P. (PAAP) and Rocky Mountain Pipeline System LLC (RMPS) alleging undue and unjust preferential treatment of affiliates of PAAP and RMPS, undue and unjust prejudice and discrimination against the Complainant, and challenging the lawfulness of the proposed reversal of flow on the interstate pipeline segment of RMPS which currently provides crude oil transportation service from Ft. Laramie, Wyoming to Wamsutter, Wyoming.

The Complainant states that a copy of the complaint has been served on the PAAP and RMPS.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5 p.m. Eastern Time on March 9, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-4085 Filed 2-25-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. ER09-683-000]

Alex Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

February 19, 2008.

This is a supplemental notice in the above-referenced proceeding of Alex Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR 34, of future issuances of securities and assumptions of liability, is March 11, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor

must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list.

They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-4083 Filed 2-25-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09-705-000]

Saracen Power LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

February 19, 2008.

This is a supplemental notice in the above-referenced proceeding of Saracen Power LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 11, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-4084 Filed 2-25-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98-1-000]

Records Governing Off-the-Record Communications; Public Notice

February 19, 2009.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires

Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Exempt:

Docket No.	File date	Presenter or requester
1. CP09-54-000	2-13-09	David Swearingen.
2. PF08-32-000	2-9-09	John Wisniewski ¹ .

Docket No.	File date	Presenter or requester
3. P-2210-169	2-9-09	T. Rogers ² .

¹ Summary of Telephone conference.

² Record of e-mail exchange.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-4082 Filed 2-25-09; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8772-1; EPA-HQ-OW-2005-0007]

Final National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges From Industrial Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final permit issuance of the 2008 Multi-Sector General Permit for Alaska, Idaho, federal facilities in Washington, and Indian Country in the states of Idaho, Oregon and Washington.

SUMMARY: EPA previously announced the issuance of the NPDES general permit for stormwater discharges from industrial activity, also referred to as the Multi-Sector General Permit (MSGP), in the **Federal Register** of September 29, 2008 (73 FR 56572). Today's action provides notice of final MSGP issuance for the states of Alaska and Idaho; for federal facilities in Washington; and for Indian Country in the states of Idaho, Oregon and Washington.

DATES: Today's action is effective on February 26, 2009. This effective date is necessary to provide dischargers with the immediate opportunity to comply with Clean Water Act requirements in light of the expiration of the previous version of the MSGP on October 30, 2005. In accordance with 40 CFR Part 23, this permit shall be considered issued for the purpose of judicial review on March 12, 2009. Under section 509(b) of the Clean Water Act, judicial review of this general permit can be had by filing a petition for review in the United States Court of Appeals with 120 days after the permit is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements in this permit may not be challenged later in civil or criminal proceedings to enforce these requirements. In addition, this permit may not be challenged in other agency proceedings. Deadlines for submittal of Notices of Intent from

facilities located in the areas listed above are provided as part of this action.

FOR FURTHER INFORMATION CONTACT: For information about the issuance of the MSGP in Alaska; Idaho; for federal facilities in Washington; and in Indian Country in Idaho, Oregon and Washington, contact Misha Vakoc, EPA Region 10, Office of Water and Watersheds at (206) 553-6650 or vakoc.misha@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

If a discharger chooses to seek coverage under this MSGP to be authorized to discharge stormwater from industrial activities, the MSGP provides specific requirements for preventing contamination of stormwater discharges from industrial facilities listed in the sectors shown below:

Sector A—Timber Products
Sector B—Paper and Allied Products Manufacturing
Sector C—Chemical and Allied Products Manufacturing
Sector D—Asphalt Paving and Roofing Materials Manufactures and Lubricant Manufacturers
Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing
Sector F—Primary Metals
Sector G—Metal Mining (Ore Mining and Dressing)
Sector H—Coal Mines and Coal Mining-Related Facilities
Sector I—Oil and Gas Extraction and Refining
Sector J—Mineral Mining and Dressing
Sector K—Hazardous Waste Treatment Storage or Disposal
Sector L—Landfills and Land Application Sites
Sector M—Automobile Salvage Yards
Sector N—Scrap Recycling Facilities
Sector O—Steam Electric Generating Facilities
Sector P—Land Transportation
Sector Q—Water Transportation
Sector R—Ship and Boat Building or Repairing Yards
Sector S—Air Transportation Facilities
Sector T—Treatment Works
Sector U—Food and Kindred Products
Sector V—Textile Mills, Apparel, and other Fabric Products Manufacturing
Sector W—Furniture and Fixtures
Sector X—Printing and Publishing

Sector Y—Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries
Sector Z—Leather Tanning and Finishing
Sector AA—Fabricated Metal Products
Sector AB—Transportation Equipment, Industrial or Commercial Machinery
Sector AC—Electronic, Electrical, Photographic and Optical Goods
Sector AD—Reserved for Facilities Not Covered Under Other Sectors and Designated by the Director

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW-2005-0007. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Publicly available docket materials are available in hard copy at the EPA Docket Center Public Reading Room, open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

Electronic versions of this final permit and fact sheet are available at EPA's stormwater Web site <http://www.epa.gov/npdes/stormwater/msgp>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.regulations.gov/fdmspublic/component/main> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other

information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Section I.B.1.

II. Background

EPA proposed the MSGP for public comment on December 1, 2005 (70 FR 72116). On September 29, 2008 (73 FR 56572), EPA announced the availability of the MSGP for industrial facilities located in the States of Massachusetts, New Hampshire, New Mexico; the Commonwealth of Puerto Rico; the District of Columbia; the Territories of Johnson Atoll, American Samoa, Guam, the Commonwealth of Northern Mariana Islands, Midway and Wake Islands; Indian Country in Alaska, Arizona, Connecticut, Massachusetts, Louisiana, Michigan, Minnesota, Nevada, New Mexico, Oklahoma, Texas, Wisconsin, Rhode Island; for certain facilities in the states of Oklahoma and Texas not on Indian Country lands; and for Federal facilities located in Delaware and Vermont.

EPA Region 10 did not issue the final MSGP for the States of Alaska and Idaho; for Federal facilities in Washington; and for Indian Country in the States of Idaho, Oregon and Washington because it had not yet received the Clean Water Act 401 certifications. Now that EPA Region 10 has received the required Clean Water Act 401 certifications, it is issuing the final MSGP, as described more fully below, in the States of Alaska and Idaho; for Federal facilities in Washington; and for Indian Country in the States of Idaho, Oregon and Washington.

The MSGP provides coverage for 29 sectors of industrial point source discharges that occur in areas not covered by an approved State NPDES program. EPA summarized the MSGP permit conditions, as well as changes from the previous version of the MSGP, in the September 29, 2008, **Federal Register** notice.

Since September 2008, EPA received final certifications under the Clean Water Act Section 401 from the States of Alaska and Idaho; the Lummi Tribe, the Confederated Tribe of the Umatilla Indians; and the Puyallup Tribe of

Indians. Accordingly, permit coverage under the MSGP is now available to dischargers in the following areas:

- The State of Alaska, except Indian Country lands;
- The State of Idaho, except Indian Country lands;
- Indian Country lands within the State of Idaho, except Duck Valley Reservation lands;
- Indian Country lands within the State of Oregon, except Fort McDermitt Reservation lands;
- Indian Country lands within the State of Washington; and
- Federal facilities in the State of Washington, except those located on Indian Country lands.

Pursuant to CWA section 401(d), the limitations and requirements contained in these certifications are now conditions of the MSGP and are included in Part 9.10 of the permit. In addition, EPA has specified the deadline for submittal of Notices of Intent from dischargers in these areas in Table 9.10–1.

The MSGP effective date is February 26, 2009. Operators of facilities discharging within the areas listed above must submit their Notice of Intent to EPA no later than May 27, 2009. The permit and the authorization to discharge will expire at midnight on September 29, 2013. As previously noted, the complete text of the updated MSGP can be obtained through EPA's Web site at <http://www.epa.gov/npdes/stormwater/msgp>.

Permit Appeal Procedures

In accordance with 40 CFR part 23, this permit shall be considered issued for the purpose of judicial review on March 12, 2009.

III. Compliance With the Regulatory Flexibility Act for General Permits

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

The legal question of whether a general permit (as opposed to an individual permit) qualifies as a "rule" or as an "adjudication" under the Administrative Procedure Act (APA) has been the subject of periodic litigation. In a recent case, the court held that the CWA Section 404

Nationwide general permit before the court did qualify as a "rule" and therefore that the issuance of the general permit needed to comply with the applicable legal requirements for the issuance of a "rule." *National Ass'n of Home Builders v. U.S. Army Corps of Engineers*, 417 F.3d 1272, 1284–85 (DC Cir. 2005) (Army Corps general permits under Section 404 of the Clean Water Act are rules under the APA and the Regulatory Flexibility Act; "Each NWP [nationwide permit] easily fits within the APA's definition of a 'rule.' * * * As such, each NWP constitutes a rule * * *").

As EPA stated in 1998, "the Agency recognizes that the question of the applicability of the APA, and thus the RFA, to the issuance of a general permit is a difficult one, given the fact that a large number of dischargers may choose to use the general permit." 63 FR 36489, 36497 (July 6, 1998). At that time, EPA "reviewed its previous NPDES general permitting actions and related statements in the **Federal Register** or elsewhere," and stated that "[t]his review suggests that the Agency has generally treated NPDES general permits effectively as rules, though at times it has given contrary indications as to whether these actions are rules or permits." *Id.* at 36496. Based on EPA's further legal analysis of the issue, the Agency "concluded, as set forth in the proposal, that NPDES general permits are permits [i.e., adjudications] under the APA and thus not subject to APA rulemaking requirements or the RFA." *Id.* Accordingly, the Agency stated that "the APA's rulemaking requirements are inapplicable to issuance of such permits," and thus "NPDES permitting is not subject to the requirement to publish a general notice of proposed rulemaking under the APA or any other law * * * [and] it is not subject to the RFA." *Id.* at 36497.

However, the Agency went on to explain that, even though EPA had concluded that it was not legally required to do so, the Agency would voluntarily perform the RFA's small-entity impact analysis. *Id.* EPA explained the strong public interest in the Agency following the RFA's requirements on a voluntary basis: "[The notice and comment] process also provides an opportunity for EPA to consider the potential impact of general permit terms on small entities and how to craft the permit to avoid any undue burden on small entities." *Id.* Accordingly, with respect to the NPDES permit that EPA was addressing in that **Federal Register** notice, EPA stated that "the Agency has considered and addressed the potential impact of the

general permit on small entities in a manner that would meet the requirements of the RFA if it applied.” *Id.*

Subsequent to EPA’s conclusion in 1998 that general permits are adjudications, rather than rules, as noted above, the DC Circuit recently held that Nationwide general permits under section 404 are “rules” rather than “adjudications.” Thus, this legal question remains “a difficult one” (*supra*). However, EPA continues to believe that there is a strong public policy interest in EPA applying the RFA’s framework and requirements to the Agency’s evaluation and consideration of the nature and extent of any economic impacts that a CWA general permit could have on small entities (*e.g.*, small businesses). In this regard, EPA believes that the Agency’s evaluation of the potential economic impact that a general permit would have on small entities, consistent with the RFA framework discussed below, is relevant to, and an essential component of, the Agency’s assessment of whether a CWA general permit would place requirements on dischargers that are appropriate and reasonable. Furthermore, EPA believes that the RFA’s framework and requirements provide the Agency with the best approach for the Agency’s evaluation of the economic impact of general permits on small entities. While using the RFA framework to inform its assessment of whether permit requirements are appropriate and reasonable, EPA will also continue to ensure that all permits satisfy the requirements of the Clean Water Act.

Accordingly, EPA hereby commits that the Agency will operate in accordance with the RFA’s framework and requirements during the Agency’s issuance of CWA general permits (in other words, the Agency commits that it will apply the RFA in its issuance of general permits as if those permits do qualify as “rules” that are subject to the RFA). In satisfaction of this commitment, during the course of this MSGP permitting proceeding, the Agency conducted the analysis and made the appropriate determinations that are called for by the RFA. In addition, and in satisfaction of the Agency’s commitment, EPA will apply the RFA’s framework and requirements in any future MSGP proceeding as well as in the Agency’s issuance of other NPDES general permits. EPA anticipates that for most general permits the Agency will be able to conclude that there is not a significant economic impact on a substantial number of small entities. In such cases, the requirements of the RFA

framework are fulfilled by including a statement to this effect in the permit fact sheet, along with a statement providing the factual basis for the conclusion. A quantitative analysis of impacts would only be required for permits that may affect a substantial number of small entities, consistent with EPA guidance regarding RFA certification.¹

IV. Quantitative Analysis of Economic Impacts of the MSGP

EPA has determined, in consideration of the discussion in Section IV above, that the issuance of the MSGP potentially could affect a substantial number of small entities. Therefore, to determine what, if any, economic impact this permit may have on small businesses, EPA conducted an economic assessment of this general permit. Based on this assessment, EPA concludes that this permit will not have a significant economic impact on a substantial number of businesses, including small businesses. The estimated increased compliance cost per permittee ranges from a low of \$8.37 per year to a high of \$28.27 per year. All cost estimates are presented in 2005 dollars. As a percentage of annual sales, the expected incremental burden of these estimated costs is small. The cost-to-sales ratios are small across all MSGP sectors, with the largest impacts observed in Sectors I (0.003 percent) and P (0.003 percent).

These cost estimates reflect the incremental monitoring, documentation and reporting costs imposed by this permit, relative to the comparable costs for compliance with MSGP 2000. They do not include the costs of additional control measures that may be required as a result of more rigorous documentation and reporting requirements (*e.g.*, for corrective action). EPA recognizes that these costs may be significant for some facilities, but believes that relatively few facilities will have significantly increased costs relative to MSGP 2000 because in most cases the underlying standards of control have not changed. EPA was unable to quantify these costs because EPA is not able to predict what site-specific additional control measures may be necessary in these limited cases.

¹ EPA’s current guidance, entitled Final Guidance for EPA Rulewriters: Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement and Fairness Act, was issued in November 2006 and is available on EPA’s Web site: <http://www.epa.gov/sbrefa/documents/rfafinalguidance06.pdf>. After considering the Guidance and the purpose of CWA general permits, EPA concludes that general permits affecting less than 100 small entities do not have a significant economic impact on a substantial number of small entities.

Based on EPA’s analysis, the Agency concludes that this permit will not result in a significant economic impact on a substantial number of small businesses. The factual basis for this conclusion is included in the economic analysis for the permit, available as part of the docket for this permit, and summarized above.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: January 29, 2009.

Michael A. Bussell,

*Director, Office of Water and Watersheds,
EPA Region 10.*

[FR Doc. E9–4152 Filed 2–25–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–1196; FRL–8772–3]

Recent Postings of Broadly Applicable Alternative Test Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the broadly applicable alternative test method approval decisions the EPA has made under and in support of New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAP) in 2008.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each alternative test method approval document is available on EPA’s Web site at <http://www.epa.gov/ttn/emc/approalt.html>. For questions about this notice, contact Jason M. DeWees, Air Quality Assessment Division, Office of Air Quality Planning and Standards (E143–02), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–9724; fax number: 919–541–0516; e-mail address: deweese.jason@epa.gov. For technical questions about individual alternative test method decisions, refer to the contact person identified in the individual approval documents.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Notice Apply to Me?

This notice will be of interest to entities regulated under 40 CFR parts 60, 61, and 63, and State, local, Tribal agencies, and EPA Regional Offices responsible for implementation and enforcement of regulations under 40 CFR parts 60, 61, and 63.

B. How Can I Get Copies of This Information?

You may access copies of the broadly applicable alternative test method approval documents from the EPA's Web site at <http://www.epa.gov/ttn/emc/approalt.html>.

II. Background

This notice identifies EPA's broadly applicable alternative test method approval decisions issued between January 1, 2008, and December 31, 2008, under the New Source Performance Standards (NSPS), 40 CFR part 60, and the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR parts 61 and 63 (see Table 1). Source owners and operators may voluntarily use these broadly applicable alternative test methods subject to their specific applicability. Use of these broadly applicable alternative test methods does not change the applicable emission standards.

As explained in a previous **Federal Register** notice published at 72 FR 4257, 1/30/07 and found on the EPA's Web site at <http://www.epa.gov/ttn/emc/approalt.html>, the EPA Administrator has the authority to approve the use of alternative test methods to comply with requirements under 40 CFR parts 60, 61, and 63. This authority is found in sections 60.8(b)(3), 61.13(h)(1)(ii), and 63.7(e)(2)(ii). Over the years, we have performed thorough technical reviews of numerous requests for alternatives and modifications to test methods and procedures. Based on these experiences, we have found that often these changes

or alternatives would be equally valid and appropriate to apply to other sources within a particular class, category, or subcategory. Consequently, we have concluded that where a method modification or a change or alternative is clearly broadly applicable to a class, category, or subcategory of sources, it is both more equitable and efficient to approve its use for all appropriate sources and situations at the same time.

It is important to clarify that alternative methods are not mandatory but permissive. Sources are not required to employ such a method but may choose to do so in appropriate cases. Source owners or operators should review the specific broadly applicable alternative method approval decision on the EPA's Web site at <http://www.epa.gov/ttn/emc/approalt.html> before electing to employ it. By electing to use an alternative method, the source owner or operator consents to thereafter demonstrate compliance with applicable requirements based on the results of the alternative method until approved to do so otherwise.

The criteria for approval and procedures for submission and review of broadly applicable alternative test methods are outlined at 72 FR 4257, 1/30/07. EPA will continue to announce approvals for broadly applicable alternative test methods on the EPA's Web site at <http://www.epa.gov/ttn/emc/approalt.html> and intends to publish a notice annually that summarizes approvals for broadly applicable alternative test methods.

This notice comprises a summary of eleven such approval documents added

to our technology transfer network from January 1, 2008, through December 31, 2008. The alternative test number, the reference method affected, sources affected, and modification or alternative method allowed are summarized in Table 1 of this notice. Please refer to the complete copies of these approval documents available from the EPA's Web site at <http://www.epa.gov/ttn/emc/approalt.html> as the table serves only as a summary of the broadly applicable alternative test methods. If you are aware of reasons why a particular alternative test method approval that we issue should not be broadly applicable, we request that you make us aware of the reasons within 60 days of the **Federal Register** notice announcing the broad approval, and we will revisit the broad approval. Any objection to a broadly applicable alternative test method as well as the resolution of that objection will be announced on the EPA's Web site at <http://www.epa.gov/ttn/emc/approalt.html> and in the subsequent **Federal Register** notice. If we should decide to retract a broadly applicable test method, we would continue to grant case-by-case approvals, as appropriate, and would (as States, local and Tribal agencies and EPA Regional Offices should) consider the need for an appropriate transition period for users either to request case-by-case approval or to transition to an approved method.

Dated: January 29, 2009.

Stephen D. Page,

Director, Office of Air Quality Planning and Standards.

TABLE 1—APPROVED ALTERNATIVE TEST METHODS AND MODIFICATIONS TO TEST METHODS UNDER APPENDICES A, B OR F IN CFR 60, 61, AND 63 MADE BETWEEN JANUARY 2008 AND DECEMBER 2008

Alternative No.	As an alternative or modification to . . .	For . . .	You may . . .
Alt-039	Method 101A—Determination of Particulate and Gaseous Mercury Emissions from Sewage Sludge Incinerators.	Sludge Drying or Sludge Incineration Facilities affected under the NESHAP for Mercury in 40 CFR part 61, subpart E.	Use Method 29 with limitations outlined in the approval letter in lieu of Method 101A.
Alt-040	Method 25C—Determination of Nonmethane Organic Compounds (NMOC) in Landfill Gas.	Sources affected under the NSPS for Municipal Solid Waste Landfills in 40 CFR part 60, subpart WWW.	Use of a Geoprobe brand sampling probe to create a sampling void. Use of a polyethylene sampling tubing. Use of a critical orifice to regulate flow.
Alt-041	Method 25C—Determination of Nonmethane Organic Compounds (NMOC) in Landfill Gas.	Sources affected under the NSPS for Municipal Solid Waste Landfills in 40 CFR part 60, subpart WWW.	Use of extraction wells and leachate risers for sampling locations in lieu of the inserting surface probes.
Alt-042	Method 3C—Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources.	Sources affected under the NSPS for Municipal Solid Waste Landfills in 40 CFR part 60, subpart WWW.	Use handheld combustion meters in lieu of Method 3C for 2 of the 3 runs.

TABLE 1—APPROVED ALTERNATIVE TEST METHODS AND MODIFICATIONS TO TEST METHODS UNDER APPENDICES A, B OR F IN CFR 60, 61, AND 63 MADE BETWEEN JANUARY 2008 AND DECEMBER 2008—Continued

Alternative No.	As an alternative or modification to . . .	For . . .	You may . . .
Alt-042	Method 22—Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares.	Sources affected under the NSPS for Municipal Solid Waste Landfills in 40 CFR part 60, subpart WWW.	Reduce Method 22 run times from 2 hours to 30 minutes.
Alt-043	Method 26A—Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources Isokinetic Method.	Sources subject to 40 CFR part 63, subpart RRR—National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.	Use Method 26 in lieu of Method 26A provided the emission stream does not contain water droplets.
Alt-044	Performance Specification 4B—Specifications and Test Procedures for Carbon Monoxides and Oxygen Continuous Monitoring Systems in Stationary Sources.	Sources subject to 40 CFR part 63, subpart EEE, National Emissions Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.	Use of the alternative relative accuracy procedures in Section 7.3 of PS 4B when CO emissions levels are consistently very low or low and interrupted periodically by short duration high level spikes.
Alt-045	Method 3C—Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources.	Sources affected under the NSPS for Municipal Solid Waste Landfills in 40 CFR part 60, subpart WWW.	Use of an alternative calibration procedure based on a drift basis similar to Method 25.
Alt-046	Method 6C—Determination of Sulfur Dioxides Emissions from Stationary Sources (Instrumental Analyzer Procedure).	Sources affected under the NSPS for Industrial-Commercial-Institutional Steam Generating Units in 40 CFR part 60, subpart Db.	Use of Method 320 in lieu of Method 6C.
Alt-046	Method 7E—Determination of Nitrogen Oxides Emissions from Stationary Sources (Instrumental Analyzer Procedure).	Sources affected under the NSPS for Industrial-Commercial-Institutional Steam Generating Units in 40 CFR part 60, subpart Db.	Use of Method 320 in lieu of Method 7E.
Alt-046	Method 10—Determination of Carbon Monoxide from Stationary Sources (Instrumental Analyzer Procedure).	Sources affected under the NSPS for Industrial-Commercial-Institutional Steam Generating Units in 40 CFR part 60, subpart Db.	Use of Method 320 in lieu of Method 10.
Alt-047	Method 12—Determination of Inorganic Lead from Stationary Sources.	Sources required to use Method 12.	Use of Inductively Coupled Plasma—Mass Spectroscopy Analysis as described in Method 6020/6020A in lieu of atomic adsorption spectroscopy for lead.
Alt-047	Method 103—Beryllium Screening Method.	Sources required to use Method 103.	Use of Inductively Coupled Plasma—Mass Spectroscopy Analysis as described in Method 6020/6020A in lieu of atomic adsorption spectroscopy for beryllium.
Alt-047	Method 104—Determination of Beryllium Emissions from Stationary Sources.	Sources required to use Method 104.	Use of Inductively Coupled Plasma—Mass Spectroscopy Analysis as described in Method 6020/6020A in lieu of atomic adsorption spectroscopy for beryllium.
Alt-047	Method 108—Determination of Particulate and Gaseous Arsenic Emissions.	Sources required to use Method 108.	Use of Inductively Coupled Plasma—Mass Spectroscopy Analysis as described in Method 6020/6020A in lieu of atomic adsorption spectroscopy for arsenic.
Alt-047	Method 108A—Determination of Arsenic Content in Ore Samples from Nonferrous Smelters.	Sources required to use Method 108A.	Use of Inductively Coupled Plasma—Mass Spectroscopy Analysis as described in Method 6020/6020A in lieu of atomic adsorption spectroscopy for arsenic.
Alt-047	Method 108B—Determination of Arsenic Content in Ore Samples from Nonferrous Smelters.	Sources required to use Method 108B.	Use of Inductively Coupled Plasma—Mass Spectroscopy Analysis as described in Method 6020/6020A in lieu of atomic adsorption spectroscopy for arsenic.

TABLE 1—APPROVED ALTERNATIVE TEST METHODS AND MODIFICATIONS TO TEST METHODS UNDER APPENDICES A, B OR F IN CFR 60, 61, AND 63 MADE BETWEEN JANUARY 2008 AND DECEMBER 2008—Continued

Alternative No.	As an alternative or modification to . . .	For . . .	You may . . .
Alt-047	Method 306—Determination of Chromium Emissions from Decorative and Hard Chromium Electroplating and Chromium Anodizing Operation—Isokinetic method.	Sources required to use Method 306.	Use of Inductively Coupled Plasma—Mass Spectroscopy Analysis as described in Method 6020/6020A in lieu of atomic adsorption spectroscopy for chromium.
Alt-048	Method 5—Determination of Particulate Matter Emissions from Stationary Sources.	Sources required to use Method 5	Use of an alternative determination of sample volume and flow rate used by the Isostack metering system.
Alt-049	Performance Specification 4B—Specifications and Test Procedures for Carbon Monoxides and Oxygen Continuous Monitoring Systems in Stationary Sources.	Sources subject to 40 CFR part 63, subpart EEE, National Emissions Standards for Hazardous Air Pollutants for Hazardous Waste Combustors.	Use of the alternative relative accuracy procedures in Section 7.3 of PS 4B when CO emissions levels are consistently very low or low and interrupted periodically by short duration high level spikes.

Source owners or operators should review the specific broadly applicable alternative method approval letter on the EPA's Web site at <http://www.epa.gov/ttn/emc/approalt.html> before electing to employ it.

[FR Doc. E9-4125 Filed 2-25-09; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Friday, February 27, 2009, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Discussion Agenda: Assessment System.

Modification of Temporary Liquidity Guarantee Program to Guarantee Mandatory Convertible Debt.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit <http://www.vodium.com/goto/fdic/>

[boardmeetings.asp](http://www.fdic.gov/video.html) to view the event. If you need any technical assistance, please visit our Video Help page at <http://www.fdic.gov/video.html>.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562-6067 (Voice or TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898-7043.

Dated: February 20, 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9-4077 Filed 2-25-09; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Friday, February 27, 2009, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider matters relating to the Corporation's supervisory and corporate activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC

Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898-7043.

Dated: February 20, 2009.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9-4078 Filed 2-25-09; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not

conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;
- b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected; and
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before April 27, 2009.

ADDRESSES: You may submit comments, identified by *FR 2018*, *FR 2023*, *FR 2835*, or *FR 2835a* by any of the following methods:

- **Agency Web Site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

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

- **E-mail:** regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

- **FAX:** 202/452-3819 or 202/452-3102.

- **Mail:** Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/generalinfo/>

[foia/ProposedRegs.cfm](http://www.federalreserve.gov/foia/ProposedRegs.cfm) as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP-500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202-395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission including, the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: <http://www.federalreserve.gov/boarddocs/reportforms/review.cfm> or may be requested from the agency clearance officer, whose name appears below.

Michelle Shore, Federal Reserve Board Clearance Officer (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202-263-4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposals to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

1. **Report title:** The Senior Loan Officer Opinion Survey on Bank Lending Practices.

Agency form number: FR 2018.

OMB control number: 7100-0058.

Frequency: Up to six times a year.

Reporters: Large U.S. commercial banks and large U.S. branches and agencies of foreign banks.

Annual reporting hours: 1,008 hours.

Estimated average hours per response: 2 hours.

Number of respondents: 84.

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 225a, 248(a)(2), and 3105(c)(2)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The FR 2018 is conducted with a senior loan officer at each respondent bank, generally through a

telephone interview, up to six times a year. The purpose of the survey is to provide qualitative and limited quantitative information on credit availability and demand, as well as evolving developments and lending practices in the U.S. loan markets. Consequently, a portion of the questions in each survey typically covers special topics of timely interest. There is the option to survey other types of respondents (such as other depository institutions, bank holding companies, or other financial entities) should the need arise. The FR 2018 survey provides crucial information for monitoring and understanding the evolution of lending practices at banks and developments in credit markets.

2. **Report title:** Senior Financial Officer Survey.

Agency form number: FR 2023.

OMB control number: 7100-0223.

Frequency: Up to four times per year.

Reporters: Large commercial banks.

Annual reporting hours: 240 hours.

Estimated average hours per response: 1 hour.

Number of respondents: 60.

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 225a, 248(a), and 263). It has been anticipated that most, if not all, of the information to be collected on the FR 2023 would be exempt from disclosure under subsection (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)). However, the confidentiality status of the survey would be determined on a case-by-case basis, when the specific questions to be asked on each particular survey are formulated but before respondents are contacted. Respondents will be informed of the confidentiality status of that particular survey, each time the survey would be conducted.

Abstract: The FR 2023 collects qualitative and limited quantitative information about liability management, the provision of financial services, and the functioning of key financial markets from a selection of sixty large commercial banks (or, if appropriate, from other depository institutions or major financial market participants). Responses are obtained from a senior officer at each participating institution through a telephone interview. The survey is conducted when major informational needs arise and cannot be met from existing data sources. The survey does not have a fixed set of questions; each survey consists of a limited number of questions directed at topics of timely interest. The survey helps pinpoint developing trends in bank funding practices, enabling the

Federal Reserve to distinguish these trends from transitory phenomena.

3. *Report titles:* Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and Quarterly Report of Credit Card Plans.

Agency form numbers: FR 2835 and FR 2835a.

OMB control number: 7100-0085.

Frequency: Quarterly.

Reporters: Commercial banks.

Annual reporting hours: FR 2835, 132 hours; and FR 2835a, 100 hours.

Estimated average hours per response: FR 2835, 13.2 minutes; and FR 2835a, 30 minutes.

Number of respondents: FR 2835, 150; and FR 2835a, 50.

Small businesses are not affected.

General description of report: These information collections are voluntary (12 U.S.C. 248(a)(2)). The FR 2835a individual respondent data are given confidential treatment (5 U.S.C. 552(b)(4)), the FR 2835 data however, is not given confidential treatment.

Abstract: The FR 2835 collects the most common interest rate charged at a sample of 150 commercial banks on two types of consumer loans made in a given week each quarter: new auto loans and other loans for consumer goods and personal expenditures.

The FR 2835a collects information on two measures of credit card interest rates from a sample of 50 commercial banks (authorized panel size), selected to include banks with \$1 billion or more in credit card receivables, and a representative group of smaller issuers. The data are representative of interest rates paid by consumers on bank credit cards because the panel includes virtually all large issuers and an appropriate sample of other issuers.

Board of Governors of the Federal Reserve System, February 23, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-4115 Filed 2-25-09; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare

Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project:

“Colorado Regional Health Information Exchange (CORHIO)—Point of Care Exchange System Evaluation: Point of Care Questionnaires and Focus Groups.” In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on December 1st, 2008 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by March 30, 2009.

ADDRESSES: Written comments should be submitted to: AHRQ’s OMB Desk Officer by fax at (202) 395-6974 (attention: AHRQ’s desk officer) or by e-mail at OIRA_submission@omb.eop.gov (attention: AHRQ’s desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by e-mail at doris.lefkowitz@ahrg.hhs.gov.

SUPPLEMENTARY INFORMATION:

Proposed Project

Colorado Regional Health Information Exchange (CORHIO)—Point of Care Exchange System Evaluation: Point of Care Questionnaires and Focus Groups

AHRQ proposes a case study of the point-of-care (POC) clinical exchange system at the Colorado Regional Health Information Exchange (COHRIO). The COHRIO is an AHRQ State and Regional Demonstration Project contract which supports the administrative and technical implementation of an information technology service to provide secure electronic transmission of clinical information between partner health care entities to improve the efficiency, quality, and safety of patient care.

The key element of CORHIO is the POC clinical exchange system, which doctors can use to access information about individual patients as they care for them. The POC clinical exchange system is an Internet-based portal which allows authorized users to log in and request clinical information for a specific patient. The POC clinical

exchange system is composed of two functions: The patient search function and the data exchange function. The patient search function is supported by the CORHIO master patient index, which is an index of all the patients that have been seen within a given time period at CORHIO’s partner health care organizations (HCOs). The patient search function allows users to enter identifying information for a patient, such as name, date of birth, or medical record number, and searches to determine if the patient has received medical care at one of the partner HCOs. The POC clinical exchange system will then display all potential matching identities available at the CORHIO partner HCOs. Users select the appropriate match, if it exists, and request available data for the selected patient. The data exchange function aggregates and displays the available data from multiple partner HCOs for the selected patient.

This proposed information collection will provide input from clinicians at four participating HCOs regarding the usability of the system and the value of the exchanged clinical information to inform decision-making, patient disposition and potentially redundant test ordering. Additionally, this case study will provide important information to inform future design and phase implementation of the CORHIO system.

This case study is being conducted pursuant to AHRQ’s statutory mandate to conduct and support research, evaluations and initiatives to advance the creation of effective linkages between various sources of health information, including the development of information networks (42 U.S.C. 299b-3(a)(3)).

Method of Collection

This case study includes 2 distinct data collections regarding the POC clinical exchange system:

1. POC Questionnaire—a survey of end-users at three emergency departments (ED) regarding their experiences with the POC clinical exchange system and its effect on patient care. This questionnaire will be used to collect data from the EDs for one week quarterly in 2009 and for the first quarter of 2010.

2. Focus Groups—focus groups with select high- and low-use users of the POC clinical exchange system from each of the three EDs and one call center. Focus groups will be conducted at 4 and 8 months after users begin using the POC system.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours for the respondents' time to participate in this project. The POC questionnaire will be administered to the three participating EDs only, while the focus groups will be held at both the EDs and the one participating call center. The POC questionnaire will be administered quarterly for an entire week at each ED. There are typically two doctors per shift, 21 shifts per week and an average of 25 patients seen by each doctor per shift. One attending

physician per shift will respond, resulting in about 525 patient encounters per each ED over a one week period. Since the POC questionnaire will be completed for each patient seen, 525 questionnaires will be completed each quarter, resulting in about 2,100 completed questionnaires per year (4 quarters x 525 per quarter) per ED. The POC questionnaire is estimated to require about two minutes to complete.

However, the POC clinical exchange system will be used for only about 10 percent of the visits. This means that for 90 percent of the visits providers will

check off "Did not use" and select a reason why they did not use the system, which will take 5 to 10 seconds. The maximum time of two minutes was used for all responses to calculate a conservative estimate of the burden.

The focus groups will be conducted twice a year at each of the four participating facilities and are expected to take one hour or less to complete. The maximum expected time of one hour was used to calculate a conservative estimate of the burden. The total burden hours for all data collections is estimated to be 242 hours.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
POC Questionnaire	3	2,100	2/60	210
Focus Groups	4	8	1	32
Total	7	na	na	242

Exhibit 2 shows the annualized cost burden for the respondent's time to

participate in this project. The total cost burden is estimated to be \$21,775.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
POC Questionnaire	3	210	\$92.03	\$19,326
Focus Groups	4	32	76.53	2,449
Total	7	242	na	21,775

* Based upon the weighted average of the "registered nurse" mean and the "surgeon" mean of the average wages, May 2007 National Occupational Employment and Wage Estimates, United States, U.S. Department of Labor, Bureau of Labor Statistics. http://www.bls.gov/oes/current/oes_nat.htm#b29-0000 (accessed Nov. 1, 2008). The "surgeon" mean salary was used for the 3 ED respondents and the "registered nurse" mean salary was used for the 1 Call Center.

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the total and annualized cost of this two-year project

to the Federal government. The total cost is \$34,730 and includes \$7,500 for project development, \$8,400 for data collection activities, \$6,580 for data

processing and analysis, \$1,000 for the publication of results and \$11,250 for project management.

EXHIBIT 3—ESTIMATED COST

Cost component	Total cost	Annualized cost
Project Development	\$7,500	\$3,750
Data Collection Activities	8,400	4,200
Data Processing and Analysis	6,580	3,290
Publication of Results	1,000	500
Project Management	11,250	5,625
Overhead	0	0
Total	34,730	17,365

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to

any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research, quality improvement and information

dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed

collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: February 17, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9-3958 Filed 2-25-09; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Understanding Patients' Knowledge and Use of Acetaminophen." In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by April 27, 2009.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by e-mail at doris.lefkowitz@ahrq.hhs.gov.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by e-mail at doris.lefkowitz@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION:

Proposed Project

"Understanding Patients' Knowledge and Use of Acetaminophen"

This proposed data collection is a qualitative study to preliminarily identify issues that relate to the misuse and overdosing of over-the-counter (OTC) acetaminophen. Toxicity from acetaminophen has been on the rise in the past 3 decades, and is now the most common cause of acute liver failure in the U.S., surpassing viral hepatitis. This data collection has two aims. Aim 1 is to qualitatively explore knowledge, attitudes, beliefs, and practices regarding adult and adolescent self-administration of OTC acetaminophen, and parental administration of OTC acetaminophen to children. To meet Aim 1, focus groups will be conducted with adults and semi-structured interviews will be conducted with adolescents. Aim 2 is to qualitatively explore experiences and practices of key professional informants, including physicians and pharmacists, with respect to communicating information on the administration and risks of OTC acetaminophen to consumers and patients. Semi-structured interviews will be conducted with target key informants. The results of this qualitative study will provide an understanding of the relevant issues and will be used to develop a comprehensive survey. A second OMB clearance package will be developed once the questionnaire for the survey is available.

This project is being funded by AHRQ pursuant to a cooperative agreement with the University of Pennsylvania (Award 1 U18HS017991) as part of the Centers for Education and Research on Therapeutics (CERTs) program. The CERTs program is a national initiative, administered by AHRQ in consultation with the Food and Drug Administration, to increase awareness of the benefits and risks of new, existing, or combined uses of therapeutics through education and research. See 42 U.S.C. 299b-1(b).

Method of Collection

Aim 1—Focus groups and individual interviews

Four focus groups will be conducted with parents of young children to examine administration of acetaminophen to children. Four focus groups will also be conducted with adults to identify the issues, barriers, and psychosocial factors surrounding how, when, and why OTC acetaminophen is used. Focus groups will each have 6 to 8 participants. Semi-structured interviews will be conducted

with adolescents to examine self-administration of acetaminophen among this group.

Content areas to be explored are: a. Knowledge about acetaminophen: Brands, terms, combinations, dosage, administration, indications; b. beliefs about benefits and risks, including thresholds for toxicity and death; c. patterns and frequency of use; d. sources of information (e.g., physicians, pharmacists, media); e. related experiences in peers (e.g., advice, reports of toxicity); and f. views about labeling, packaging and legislation (e.g., restrictions in sales).

Aim 2—Semi-structured interviews with physicians and pharmacists

Twenty primary care physicians and 20 pharmacists will be interviewed. Primary care physicians will be recruited through a primary care research network of physicians from both private and public clinics. Pharmacists will be recruited at pharmacy facilities from hospitals and clinics. Interviews will be conducted over the phone or in person, according to the participant's preference, and will last approximately 20 minutes. All interviews will be audio-taped and transcribed. Participants will be asked about the following: a. Frequency and patterns of interaction with consumers and patients with respect to acetaminophen; b. types of information provided to consumers; c. availability of education materials; and d. views about labeling, packaging and legislation.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this project. The screening form will be completed by all participants and is expected to take approximately 3 minutes to complete. Focus groups will include 2 populations: Parents of children 8 years of age and adults, and will last about 1½ hours. Semi-structured interviews will be conducted with 20 adolescents, 20 primary care physicians, and 20 pharmacists and will last 20 to 30 minutes. The self-administered questionnaire will be completed by the focus group participants and the adolescent participants of the semi-structured interviews, and will take about 6 minutes to complete. The total burden for all participants is estimated to be 134 hours.

Exhibit 2 shows the estimated annualized cost burden for the respondent's time to participate in the project. The total cost is estimated to be \$2,001.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Data collection mode	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Screening form	124	1	3/60	6
Self-administered questionnaire	84	1	6/60	8
Focus group with parents of children <8 years of age (4 groups of 8 participants)	32	1	1.5	48
Focus group with adults (4 groups of 8 participants)	32	1	1.5	48
Semi-structured interviews with adolescents (13 to 20 years of age)	20	1	30/60	10
Semi-structured interviews with primary care physicians	20	1	20/60	7
Semi-structured interviews with pharmacists	20	1	20/60	7
Total	332	134

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Data collection mode	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Screening form	124	6	\$10.30	\$62
Self-administered questionnaire	84	8	10.30	82
Focus groups with parents of children <8 years of age (4 groups of 8 participants)	32	48	10.30	494
Focus groups with adults (4 groups of 8 participants)	32	48	10.30	494
Semi-structured interviews with adolescents (13 to 20 years of age)	20	10	10.30	103
Semi-structured interviews with primary care physicians	20	7	61.10	428
Semi-structured interviews with pharmacists	20	7	48.22	338
Total	332	134	2,001

* Patient average hourly wage based on the average per capita income of \$21,435 (computed into an hourly wage rate of \$10.30) in Harris County, Texas where the study will take place. Provider hourly wage based on the following estimates from National Compensation Survey: Occupational wages in the United States 2006, U.S. Department of Labor, Bureau of Labor Statistics: Primary care physician = \$61.10/hour; pharmacist = \$48.22/hour.

Estimates of Annualized Cost to the Government

Exhibit 3 shows the estimated cost to the Federal Government for this six month project.

The total cost is \$164,440. This amount includes all direct and indirect costs of the design, data collection, analysis, and reporting phase of the study.

EXHIBIT 3—ESTIMATED COST

Cost component	Total cost
Project Development	\$13,250
Data Collection Activities	61,699
Data Processing and Analysis	14,080
Publication of Results	750
Project Management	17,000
Overhead	57,661
Total	164,440

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of

AHRQ health care research, quality improvement and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: February 17, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9-3959 Filed 2-25-09; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2008-N-0631]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Device Recall Authority

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by March 30, 2009.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs,

OMB, Attn: FDA Desk Officer, FAX: 202-395-6974, or e-mailed to oir_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-0432. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Denver Presley, Jr., Office of Information Management (HFA-710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-796-3793.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Device Recall Authority—21 CFR Part 810 (OMB Control Number 0910-0432)—Extension

This collection of information implements section 518(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360h) and part 810 (21 CFR part 810) for the medical device recall authority provisions. Section 518(e) of the act provides FDA with the

authority to issue an order requiring an appropriate person, including manufacturers, importers, distributors, and retailers of a device, if FDA finds that there is reasonable probability that the device intended for human use would cause serious adverse health consequences or death to: (1) Immediately cease distribution of such device, (2) immediately notify health professionals and device-user facilities of the order, and (3) instruct such professionals and facilities to cease use of such device.

Further, the provisions under section 518 (e) of the act sets out a three-step procedure for issuance of a mandatory device recall order which are: (1) If there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, FDA may issue a cease distribution and notification order requiring the appropriate person to immediately: (a) Cease distribution of the device, (b) notify health professionals and device user facilities of the order, and (c) instruct those professionals and facilities to cease use

of the device, (2) FDA will provide the person named in the cease distribution and notification order with the opportunity for an informal hearing on whether the order should be modified, vacated, or amended to require a mandatory recall of the device and, (3) after providing the opportunity for an informal hearing, FDA may issue a mandatory recall order if the agency determines that such an order is necessary.

The information collected under the recall authority provisions will be used by FDA to: (1) Ensure that all devices entering the market are safe and effective, (2) accurately and immediately detect serious problems with medical devices, and (3) remove dangerous and defective devices from the market.

In the **Federal Register** of December 19, 2008 (73 FR 77719), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
810.10(d)	2	1	2	8	16
810.11(a)	1	1	1	8	8
810.12(a-b)	1	1	1	8	8
810.14	2	1	2	16	32
810.15(a-c)	2	1	2	12	24
810.15(d)	2	1	2	4	8
810.15(e)	10	1	10	1	10
810.16(a-b)	2	12	24	40	960
810.17(a)	2	1	2	8	16
Total					1,082

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECODKEEPING BURDEN¹

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
810.15(b)	2	1	1	8	8

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

Explanation for Burden Estimates:

The burden estimates for tables I and II of this document are based on FDA's experience with voluntary recalls under part 810 of the regulations. FDA expects no more than two mandatory recalls per year, as most recalls are done voluntarily. Since the last time this collection of information was submitted to OMB for renewal/approval, there have been no mandatory recalls.

Dated: February 18, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9-4137 Filed 2-25-09; 8:45 am]

BILLING CODE 4160-01-S

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 Oral and Dental: Small Business.

Date: March 5-6, 2009.

Time: 9 a.m. to 12 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: Tamizchelvi Thyagarajan, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016K, MSC 7814, Bethesda, MD 20892, 301-451-1327, *tthyagar@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, Pathogens and their Vectors.

Date: March 12, 2009.

Time: 10 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: Richard G. Kostriken, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301-402-4454, *kostrikr@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 Quick Trials on Imaging and Image-guided Intervention.

Date: March 12, 2009.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: John Firrell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, MSC 7854, Bethesda, MD 20892, 301-435-2598, *firrellj@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, Infectious Agent Detection/Diagnosis, Food Safety, Sterilization/Disinfection and Bioremediation.

Date: March 13, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Fouad A. El-Zaatar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20814-9692, (301) 435-1149, *elzaataf@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, Specials of Genes, Genomes, and Genetics.

Date: March 13, 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: Michael A. Marino, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2216, MSC 7890, Bethesda, MD 20892, (301) 435-0601, *marinomi@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, BTSS Member Conflict.

Date: March 16, 2009.

Time: 2 p.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: 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, Member Conflict: Immune Mechanisms.

Date: March 19, 2009.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Jian, Wang, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892, (301) 435-2778, *wangjia@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Health of the Population SBIR-2.

Date: March 23, 2009.

Time: 12 p.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: Karin F. Helmers, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, 301-435-1017, *helmersk@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Data Ontologies and Sharing Data and Tools.

Date: March 24-25, 2009.

Time: 8 a.m. to 4:30 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 Gubin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 5144, MSC 7812, Bethesda, MD 20892, 301-435-2902, *gubina@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Digestive Sciences.

Date: March 24-25, 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: Bonnie L. Burgess-Beusse, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301-435-1783, beusseb@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel Diversity Fellowships: Division of Translational and Clinical Sciences.

Date: March 24–25, 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: John Firrell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, MSC 7854, Bethesda, MD 20892, 301-435-2598, firrellj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Technologies in Cell Biology.

Date: March 24–25, 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: Noni Byrnes, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5130, MSC 7840, Bethesda, MD 20892, (301) 435-1023, byrnesn@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 18, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–3944 Filed 2–25–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the

Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Rapid HIV Testing Clinical Information Form for the Minority AIDS Initiative (MAI) for Ethnic and Racial Minorities at Risk for Substance Use and HIV/AIDS—In Use Without OMB Approval

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT), is requesting an OMB review and approval of the Minority AIDS Initiative (MAI) Rapid HIV Testing Clinical Information Form that will be utilized for ethnic and racial minority groups at risk for substance use and HIV/AIDS that are served by CSAT's TCE–HIV grantees. The MAI HIV Rapid Testing Clinical Information Form would allow SAMHSA/CSAT to collect essential clinical information that will be used for quality assurance, quality performance, and product monitoring on approximately 30,000 rapid HIV test kits to be provided to ethnic and racial minority communities at no cost to the recipient provider organizations. The MAI Rapid HIV Testing Clinical Information Form would support quality of care, provide adequate clinical and product monitoring, and provide appropriate safeguards against fraud, waste and abuse of Federal funds. SAMHSA's approach would avoid unnecessary delay in informing any person potentially adversely affected by a test kit recall or public health advisory. This program is authorized under Section 509 of the Public Health Service (PHS) Act [42 U.S.C. 290bb–2].

The goals of SAMHSA's MAI initiative are to: (1) Increase the access

by racial and ethnic minority communities to HIV testing, prevention, care, and treatment services; (2) implement strategies and activities specifically targeted to the highest risk and hardest-to-serve populations; (3) reduce the stigma associated with HIV/AIDS screening through outreach and education, and (4) establish collaborations or opportunities for programs and/or activities to be integrated.

The target populations for the initiative are African Americans, Hispanic/Latinos, and other racial and ethnic minorities that are disproportionately impacted by the twin epidemics of HIV/AIDS and substance abuse. Since 1981 approximately 1.7 million people are estimated to have been infected with HIV in the U.S., and more than 1.1 million are estimated to be living with HIV/AIDS today. Racial and ethnic minorities have been disproportionately affected by HIV/AIDS, and represent the majority of new AIDS cases (70%), new HIV infections (54%), prevalent HIV/AIDS cases (65%), and AIDS deaths (72%) (CDC, 2006). African Americans have been especially affected by HIV/AIDS. More than half of all new HIV infections and half of new AIDS diagnoses occur in African Americans despite their accounting for approximately 12% of the U.S. population. A similar impact exists among Latinos, who represent 14% of the U.S. population but account for 20% of estimated AIDS diagnoses. Together, Asian/Pacific Islanders and American Indian/Alaska Natives represent 1%–2% of new AIDS diagnoses.

The spread of HIV disease in the United States has been partly fueled by the use of illicit drugs. Injection drug use (IDU) is directly related to HIV transmission through the sharing of drug equipment. According to CDC's latest report on 2006 rates, IDUs accounted for 12 percent of estimated new HIV infections. CDC's historical trend analysis indicates that new infections have declined dramatically in this population over time and confirm the substantial evidence to date of success in reducing HIV infections among IDUs. Despite these declines, rates of HIV and AIDS continue to rise among certain groups including men who have sex with men, high risk heterosexual women and ethnic and racial minority groups due to non-IDU drugs and alcohol that interfere with judgment about sexual and other types of behaviors.

The estimated hour burden is presented in the following table:

Number of respondents	Responses/ respondent	Burden hours	Total burden hours
30,000	1	.167	5,010

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7-1044, One Choke Cherry Road, Rockville, MD 20857 and e-mail her a copy at summer.king@samhsa.hhs.gov. Written comments should be received within 60 days of this notice.

Dated: February 20, 2009.

Elaine Parry,
 Director, Office of Program Services.
 [FR Doc. E9-4088 Filed 2-25-09; 8:45 am]
 BILLING CODE 4162-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

Project: Notification of Intent To Use Schedule III, IV, or V Opioid Drugs for the Maintenance and Detoxification Treatment of Opiate Addiction Under 21 U.S.C. 823(g)(2) (OMB No. 0930-0234)—Revision

The Drug Addiction Treatment Act of 2000 ("DATA," Pub. L. 106-310) amended the Controlled Substances Act (21 U.S.C. 823(g)(2)) to permit practitioners (physicians) to seek and obtain waivers to prescribe certain

approved narcotic treatment drugs for the treatment of opiate addiction. The legislation sets eligibility requirements and certification requirements as well as an interagency notification review process for physicians who seek waivers. The legislation was amended in 2005 to eliminate the patient limit for physicians in group practices, and in 2006, to permit certain physicians to treat up to 100 patients.

To implement these provisions, SAMHSA developed a notification form (SMA-167) that facilitates the submission and review of notifications. The form provides the information necessary to determine whether practitioners (*i.e.*, independent physicians) meet the qualifications for waivers set forth under the new law. Use of this form will enable physicians to know they have provided all information needed to determine whether practitioners are eligible for a waiver.

However, there is no prohibition on use of other means to provide requisite information. The Secretary will convey notification information and determinations to the Drug Enforcement Administration (DEA), which will assign an identification number to qualifying practitioners; this number will be included in the practitioner's registration under 21 U.S.C. 823(f).

Practitioners may use the form for three types of notification: (a) New, (b) immediate, and (c) to notify of their intent to treat up to 100 patients. Under "new" notifications, practitioners may make their initial waiver requests to SAMHSA. "Immediate" notifications inform SAMHSA and the Attorney General of a practitioner's intent to prescribe immediately to facilitate the

treatment of an individual (one) patient under 21 U.S.C. 823(g)(2)(E)(ii). Finally, the form may be used by physicians with waivers to certify their need and intent to treat up to 100 patients.

The form collects data on the following items: Practitioner name; State medical license number and DEA registration number; address of primary location, telephone and fax numbers; e-mail address; purpose of notification new, immediate, or renewal; certification of qualifying criteria for treatment and management of opiate dependent patients; certification of capacity to refer patients for appropriate counseling and other appropriate ancillary services; certification of maximum patient load, certification to use only those drug products that meet the criteria in the law. The form also notifies practitioners of Privacy Act considerations, and permits practitioners to expressly consent to disclose limited information to the *SAMHSA Buprenorphine Physician Locator*.

Since July 2002, SAMHSA has received over 17,000 notifications and has certified almost 16,000 physicians. Eighty-one percent of the notifications were submitted by mail or by facsimile, with approximately twenty percent submitted through the Web based online system. Approximately 60 percent of the certified physicians have consented to disclosure on the *SAMHSA Buprenorphine Physician Locator*.

Respondents may submit the form electronically, through a dedicated Web page that SAMHSA will establish for the purpose, as well as via U.S. mail.

The following table summarizes the estimated annual burden for the use of this form.

Purpose of submission	Number of respondents	Responses per respondent	Burden per response (hr.)	Total burden (hrs)
Initial Application for Waiver	1,500	1	.083	125
Notification to Prescribe Immediately	50	1	.083	4
Notice to Treat up to 100 patients	500	1	.040	20
Total	2,050	149

Written comments and recommendations concerning the proposed information collection should be sent by March 30, 2009 to: SAMHSA Desk Officer, Human Resources and

Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent

through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202-395-6974.

Dated: February 20, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9-4089 Filed 2-25-09; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Published Privacy Impact Assessments on the Web

AGENCY: Privacy Office, DHS.

ACTION: Notice of publication of Privacy Impact Assessments.

SUMMARY: The Privacy Office of the Department of Homeland Security (DHS) is making available twenty-nine Privacy Impact Assessments on various programs and systems in the Department. These assessments were approved and published on the Privacy Office's Web site between October 1 and December 31, 2008.

DATES: The Privacy Impact Assessments will be available on the DHS Web site until April 27, 2009, after which they may be obtained by contacting the DHS Privacy Office (contact information below).

FOR FURTHER INFORMATION CONTACT: John W. Kropf, Acting Chief Privacy Officer, Department of Homeland Security, Mail Stop 0550, Washington, DC 20528, or e-mail: pia@dhs.gov.

SUPPLEMENTARY INFORMATION: Between October 1 and December 31, 2008, the Chief Privacy Officer of the Department of Homeland Security (DHS) approved and published twenty-nine Privacy Impact Assessments (PIAs) on the DHS Privacy Office Web site, <http://www.dhs.gov/privacy>, under the link for "Privacy Impact Assessments." These PIAs cover twenty-nine separate DHS programs. Below is a short summary of those programs, indicating the DHS component responsible for the system, and the date on which the PIA was approved. Additional information can be found on the Web site or by contacting the Privacy Office.

System: Financial Disclosure Management.

Component: Office of General Counsel.

Date of approval: October 1, 2008.

The Ethics Division of the Office of General Counsel of DHS published this PIA for the Financial Disclosure Management System (FDMS). FDMS is a Web-based initiative developed to provide a mechanism for individuals to complete, sign, review, and file

financial disclosure reports, first required by Title I of the Ethics in Government Act of 1978. This PIA was conducted because FDMS collects personally identifiable information (PII).

System: Keeping Schools Safe.

Component: Science and Technology.

Date of approval: October 1, 2008.

Keeping Schools Safe is a research and development effort funded by the DHS Science & Technology Directorate (S&T) in support of the Alabama State Department of Homeland Security. The purpose of this pilot is to test the functionality and clarity of live streaming video technology for first responders and law enforcement applications in a school environment. A PIA was conducted because images of individuals (volunteer Alabama law enforcement officials) will be captured during the field test. This PIA will only cover the research activities being conducted on behalf of S&T during this operational field test.

System: United States Homeport Update.

Component: U.S. Coast Guard.

Date of approval: October 17, 2008.

This is an update to the previous Homeport PIA, dated May 9, 2006, in order to describe the new functionality that allows merchant mariners to determine the status of their credential application using the Homeport Internet Portal. Homeport uses the identification information provided by the mariner to match records from the Merchant Mariner Licensing and Documentation system and provide mariners the current status of their credential application. Information provided by the mariner will be used solely for matching records and will not be retained in Homeport at the completion of the online session.

System: Data Analysis and Research for Trade Transparency System.

Component: Immigration and Customs Enforcement.

Date of approval: October 20, 2008.

Immigration and Customs Enforcement (ICE) operates the Data Analysis and Research for Trade Transparency System (DARTTS), which supports ICE investigations of trade-based money laundering, contraband smuggling, and trade fraud. DARTTS analyzes trade and financial data to identify statistically anomalous transactions that may warrant investigation for money laundering or other import-export crimes. These anomalies are then independently confirmed and further investigated by experienced ICE investigators. ICE conducted this PIA because DARTTS collects and uses PII associated with money laundering, contraband smuggling, and trade fraud.

System: Secure Flight Program.

Component: Transportation Security Administration.

Date of approval: October 21, 2008.

The Secure Flight program matches identifying information of aviation passengers and certain non-travelers against the consolidated and integrated terrorist watch list maintained by the Federal Government in a consistent and accurate manner, while minimizing false matches and protecting PII. TSA published a Final Rule outlining TSA's implementation of the Secure Flight program. In conjunction with this Final Rule, TSA published this updated PIA. This updated PIA reflects the Secure Flight program as described in the Final Rule.

System: Alien Change of Address Card.

Component: U.S. Citizenship and Immigration Service.

Date of approval: October 21, 2008.

United States Citizenship and Immigration Service (USCIS) published this PIA for the Alien Change of Address Card (AR-11) System. The AR-11 tracks the address changes submitted to the Department of Homeland Security (DHS) in paper and electronic form as required by Section 265 of the Immigration and Nationality Act (INA), 8 U.S.C. 1305. USCIS has conducted this PIA because AR-11 contains PII.

System: First Phase of the Initial Operating Capability of Interoperability Between the U.S. Department of Homeland Security and the U.S. Department of Justice.

Component: US VISIT.

Date of approval: October 23, 2008.

The DHS United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program, in cooperation with the Department of Justice Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Division, implemented the first phase of initial operating capability (IOC) of system interoperability (Interoperability) between US-VISIT's Automated Biometric Identification System (IDENT) and CJIS' Integrated Automated Fingerprint Identification System (IAFIS). This capability, which expands upon and improves the method of exchange and sharing of certain biometric and biographic data between IDENT and IAFIS, is intended to increase data sharing between DHS and Federal, State, and local agencies for law enforcement activity relating to the DHS mission. This PIA describes these uses and sharing of data under the first phase of the Interoperability IOC, as well as the associated privacy risks and measures taken by US-VISIT to mitigate those risks.

System: Reality Mobile Kentucky: Operational Field Test.

Component: Science and Technology.

Date of approval: October 24, 2008.

The Reality Mobile Kentucky project is a research and development effort by DHS S&T that seeks to test the operational effectiveness and efficiency of streaming video for law enforcement applications. Reality Mobile software is a commercially available software-driven system that would allow first responders and law enforcement officials to send and receive live video and geospatial coordinates. S&T conducted this PIA because the Kentucky State Police will capture images of individuals during the field test in accordance with their law enforcement authorities, standard operating procedures, and applicable state and local laws. This PIA covers only the research activities conducted by S&T during this operational field test. Should S&T acquire the technology and transition it to a DHS Component, that DHS Component will be responsible for completing the subsequent privacy assessments of the Reality Mobile technology and its use.

System: Chemical Security Assessment Tool Update.

Component: National Protection and Programs.

Date of approval: October 27, 2008.

This is an update to the previous Chemical Security Assessment Tool (CSAT) PIA. CSAT collects PII from CSAT users and Chemical-Terrorism Vulnerability Information Web site users. This update improves a CSAT user's ability to know who else in their company also has access to CSAT. Further, the CSAT Helpdesk collects contact information both from CSAT users requesting basic CSAT IT support and from the general public inquiring about the CSAT program. Provision of basic CSAT user information to the Helpdesk will allow quicker services and support.

System: Homeland Security Virtual Assistance Center.

Component: Federal Emergency Management Agency.

Date of approval: November 3, 2008.

The DHS Federal Emergency Management Agency (FEMA) National Preparedness Directorate operates the Homeland Security Virtual Assistance Center (HSVAC). HSVAC is an advanced Web-based, technical assistance management solution that supports FEMA in the scheduling, coordination, and management of training provided to First Responders, including state and local government entities and organizations. FEMA

conducted this PIA because HSVAC will use and maintain PII to authenticate user identities of those individuals requesting access to the application.

System: USCIS Person Centric Query Service Supporting Visa Benefit Adjudicators, Visa Fraud Officers, and Consular Officers of the Department of State, Bureau of Consular Affairs.

Component: U.S. Citizenship and Immigration Services.

Date of approval: November 5, 2008.

This is an update to the existing PIA for the Department of State, Bureau of Consular Affairs, Visa Benefit Adjudicators, Visa Fraud Officers, and Consular Officers (Adjudicators and Officers) use of the Person Centric Query Service (PCQS), operating through the USCIS Enterprise Service Bus to expand the PCQS person-search capability and describe the privacy impact of expanding the PCQS to include the following additional systems to the PCQS query for the Bureau of Consular Affairs, Adjudicators and Officers Client: (1) USCIS Marriage Fraud Amendment System and (2) USCIS Reengineered Naturalization Applications Casework System.

System: Air Cargo Security Requirements.

Component: Transportation Security Administration.

Date of approval: November 12, 2008.

TSA made several changes to its air cargo program that involve the collection of PII and the addition of new populations for which information will be collected. First, for TSA conducted security threat assessments (STAs) on individuals participating in its air cargo programs, TSA requires the submittal of contact and employer information for all participants so TSA can contact the individual in the adjudication process. Second, TSA allows non-citizens who do not have an Alien Registration Number to provide a Form I-94 Arrival/Departure number. Third, TSA created a new Certified Cargo Screening Program (CCSP), expanding the population of individuals who will need to provide PII for TSA-conducted STAs. A new automated collection STA Tool deployed to support the collection of PII from the CCSP population. Fourth, TSA updated the records retention schedule and redress processes applicable to all populations submitting PII for STAs under its air cargo programs. In accordance with Section 222 of the Homeland Security Act of 2002, TSA issued this update (PIA Update) to the Air Cargo Security Requirements PIA published on April 14, 2006, to incorporate these changes. The April 14,

2006 PIA remains in effect to the extent that it is consistent with this update. This update should be read together with the 2006 PIA.

System: Advance Passenger Information System Final Rule.

Component: Customs and Border Protection.

Date of approval: November 18, 2008.

CBP issued a Final Rule to amend regulations governing the submission of Advanced Passenger Information System (APIS) data to include private aircraft. CBP published a revised PIA and a revised associated System of Records Notice to include these final changes with its existing APIS privacy notices. The previous System of Records Notice for the APIS system was last published at 72 FR 48349, August 23, 2007. On September 18, 2007, CBP published a Notice of Proposed Rulemaking in the **Federal Register** (72 FR 53393) proposing amendments to CBP regulations concerning the advance electronic transmission of passenger and crew manifests for private aircraft arriving in and departing from the United States, commonly referred to as APIS. A PIA update was published on the DHS Web site at the same time discussing the impact of the notice of proposed rule.

System: Law Enforcement Intelligence Fusion Systems.

Component: Immigration and Customs Enforcement.

Date of approval: November 17, 2008.

The ICE Law Enforcement Intelligence Fusion System (IFS) enables ICE and other DHS law enforcement and homeland security personnel to analyze volumes of information from multiple data sources through a single Web-based access point. All IFS activity is predicated on ongoing and valid homeland security operations, law enforcement activities, and intelligence production requirements. IFS was formerly known as the ICE Network Law Enforcement Analysis Data System. ICE has completed this PIA to provide additional notice of the existence of IFS and publicly document the privacy protections that are in place for IFS.

System: Vessel Requirements for Notices of Arrival and Departure and Automatic Identification System Notice of Proposed Rulemaking.

Component: U.S. Coast Guard.

Date of approval: November 19, 2008.

The USCG published a proposed rule entitled "Vessel Requirements for Notices of Arrival and Departure and Automatic Identification System." The rule proposes to expand the applicability of notice of arrival (NOA) requirements to additional vessels,

establish a separate requirement for certain vessels to submit notices of departure (NOD), set forth a mandatory method for electronic submission of NOA and NOD, and modify related reporting content, timeframes, and procedures. This proposed rule would also expand the applicability of Automatic Identification System (AIS) requirements beyond Vessel Traffic Service areas to all U.S. navigable waters and require AIS carriage for additional commercial vessels. USCG conducted this PIA because portions of the rule require an expansion of an existing collection of PII and because the system, Ship Arrival Notification System, which maintains the NOA and NOD information, will maintain the collection of PII.

System: Verification Information System Update.

Component: U.S. Citizenship and Immigration Services.

Date of approval: November 20, 2008.

The Verification Division of USCIS operates the Verification Information System (VIS). VIS is a composite information system that provides immigration status verification for government agencies and verification of employment authorization for employers participating in the E-Verify program. USCIS conducted this PIA to: (1) Cover the expansion of VIS to collect and verify information from United States Passports and Passport Cards from E-Verify users, (2) describe the expansion of the scope of SAVE to include verification of citizenship and immigration status for any DHS lawful purpose, not just for government benefit granting purposes as described in previous PIAs, and (3) describe the expansion of the scope of E-Verify to indicate that it is no longer solely voluntary in some cases and no longer solely for new employees in certain cases.

System: Suspicious Activity Reports Project.

Component: Operations.

Date of approval: November 21, 2008.

The Office of Operations Coordination and Planning (OPS), in cooperation with the S&T published this PIA to reflect a planned research project regarding Suspicious Activity Reports (SARs). The Operations Coordination and Planning Directorate will host a stand-alone system designed to analyze Suspicious Activity Report data taken from several DHS components. OPS conducted this PIA because SARs occasionally contain PII and because it is physically hosting the project in addition to contributing SARS data.

System: National Flood Insurance Program (NFIP) Modernization/Business Process Improvement/Systems Engineering Management Support.

Component: Federal Emergency Management Agency.

Date of approval: November 26, 2008.

The DHS FEMA National Flood Insurance Program (NFIP) Modernization, Business Process Improvement, and Systems Engineering Management Support project has transitioned into NFIP IT NextGen. The NFIP IT NextGen service oriented and integrated systems will support daily reporting by NFIP insurance companies and improve services to stakeholders, especially policy holders. The purpose of this PIA is to describe the collection of information in conducting NFIP processes and how NFIP information is used by FEMA and the NFIP community.

System: Automated Targeting System Update.

Component: Customs and Border Protection.

Date of approval: December 2, 2008.

This is an update to the previous Automated Targeting System PIA, dated August 3, 2007, in order to expand the scope of the data accessed for screening and targeting purposes to include additional importer and carrier requirements. In conjunction with this update, CBP published an Interim Final Rule that amends the CBP regulations contained in 19 CFR parts 4, 12, 18, 101, 103, 113, 122, 123, 141, 143, 149, 178, and 192 addressing the advanced electronic submission of information by importers and vessel carriers.

System: Automated Commercial System/Automated Commercial Environment-Importer Security Filing Data.

Component: Customs and Border Protection.

Date of approval: December 2, 2008.

CBP expanded and revised the collection of data from carriers and importers to the Automated Commercial System (ACS) in an effort to prevent terrorist weapons from being transported to the United States. Using ACS, CBP collects cargo, carrier, importer, and other data to achieve improved high-risk cargo targeting as required by Section 203 of the Security and Accountability for Every Port Act of 2006 (Pub. L. 109-347, 120 Stat. 1884 (SAFE Port Act)). This PIA was conducted to explore the use of PII contained in the Importer Security Filing submitted by the importer to CBP.

System: Customer Relationship Interface System.

Component: U.S. Citizenship and Immigration Services.

Date of approval: December 4, 2008.

USCIS developed the Customer Relationship Interface System (CRIS) to provide USCIS customers with the status of pending applications and petitions for benefits and processing time information. This PIA is required because the CRIS database contains PII such as Alien Registration Number (A-Number), full name, date of birth, and address.

System: State, Local, and Regional Fusion Center Initiative.

Component: Department of Homeland Security.

Date of approval: December 11, 2008.

Pursuant to Section 511 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (the "9/11 Commission Act" or "the Act"), Public Law No. 110-53, the DHS Privacy Office conducted a PIA on the Homeland Security State, Local, and Regional Fusion Center Initiative (the Initiative). Under the Initiative, DHS will facilitate appropriate, bi-directional information sharing between the Department and State, Local, and Regional Fusion Centers. In addition, the Department will assign trained intelligence analysts to fusion centers, provided those centers meet a number of criteria set forth in the text. The Act requires the Department to complete a concept of operations (CONOPS) for the Initiative, including a PIA. The CONOPS also includes a Civil Liberties Impact Assessment, conducted by the DHS Office for Civil Rights and Civil Liberties.

System: Future Attribute Screening Technology Project.

Component: Science and Technology.

Date of approval: December 15, 2008.

DHS identified a need for new technical capabilities that can rapidly identify suspicious behavior indicators to provide real-time decision support to security and law enforcement personnel. The Future Attribute Screening Technology Mobile Module (FAST) project, sponsored by S&T Homeland Security Advanced Research Projects Agency and executed under the oversight of DHS S&T's Human Factors Behavior Sciences Division, seeks to develop people screening technologies that will enable security officials to test the effectiveness of current screening methods at evaluating suspicious behaviors and judging the implications of those behaviors. The ultimate goal of the FAST project is to equip security officials with the tools to assess potential threats rapidly. This first phase of the FAST project is limited to

identifying various screening sensors and conducting testing of various sensors with volunteer participants.

System: Scheduling and Notification of Applicants for Processing.

Component: U.S. Citizenship and Immigration Services.

Date of approval: December 15, 2008.

USCIS developed the Scheduling and Notification of Applicants for Processing (SNAP) system. SNAP automatically schedules appointments for immigration benefits for applicants/petitioners to submit biometric information to USCIS. USCIS conducted this PIA because SNAP uses PII to perform its scheduling functions.

System: Customer Proprietary Network Information.

Component: United States Secret Service.

Date of approval: December 17, 2008.

The U.S. Secret Service (USSS) and the FBI co-sponsor and manage the Customer Proprietary Network Information (CPNI) Reporting Web site. The Web site is a tool for telecommunications carriers to report a breach of its customer proprietary network information to law enforcement. The USSS and the FBI conducted this PIA because the CPNI Reporting Web site contains PII.

System: Changes to Requirements Affecting H-2A Nonimmigrants and Changes to Requirements Affecting H-2B Nonimmigrants and Employers Final Rules.

Component: U.S. Citizenship and Immigration Services.

Date of approval: December 18, 2008.

USCIS published this PIA in conjunction with two Final Rules titled Changes to Requirements Affecting H-2A Nonimmigrants and Changes to Requirements Affecting H-2B Nonimmigrants and Employers. The Final Rules announce employers' requirements to notify USCIS when an H-2A or H-2B worker absconds, fails to report for work, or is terminated early and/or when any prohibited fees are collected from aliens as a condition of H-2A or H-2B employment. USCIS conducted this PIA because the nonimmigrant visa programs associated with these Final Rules involve the collection of PII.

System: Stand-Off Detection.

Component: Transportation Security Administration.

Date of approval: December 23, 2008.

TSA deploys advanced explosives detection technology using passive millimeter wave screening technologies as part of the agency's efforts to ensure the safety of travelers. The objective is to identify individuals who may seek to

detonate explosives in transportation facilities. This PIA was conducted to provide transparency into TSA operations affecting the public.

System: Disaster Assistance Improvement Plan.

Component: Federal Emergency Management Agency.

Date of approval: December 31, 2008.

DHS FEMA developed the Disaster Assistance Improvement Program (Disaster Assistance Center) in accordance with the August 29, 2006, Executive Order 13411, "Improving Assistance for Disaster Victims." The Disaster Assistance Center is an enhancement and upgrade of the current system known as the National Emergency Management Information System, which contains, stores, and manages information contained in the Disaster Recovery Assistance Files System of Records (DHS/FEMA—REG 2), as announced in the Disaster Recovery Assistance Files System of Record Notice (71 FR 38408, July 6, 2006) (DRA SORN). The data elements include those that are contained and captured on the FEMA form 90-69. The objective of this PIA is to identify and address the safeguarding of PII that may result from FEMA's proposed implementation of Executive Order 13411 and its modification of the Individual Assistance Center application.

System: Department of Homeland Security General Contact List.

Component: DHS Wide.

Date of approval: December 19, 2008.

Many DHS operations and projects collect a minimal amount of contact information in order to distribute information and perform various other administrative tasks. Department Headquarters conducted this PIA because contact lists contain PII. The Department added the following systems to this PIA:

- U.S. Coast Guard Citizen's Action Network.
- Transportation Security Administration Rail Security.
- Transportation Security Administration Enterprise Performance Management Platform.
- National Protection and Programs Directorate Vehicle-Bourne Explosive Device Training.
- U.S. Coast Guard 2009 World Maritime Day Parallel Event.

- Transportation Security Administration Inquiry Management System.

John W. Kropf,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9-4151 Filed 2-25-09; 8:45 am]

BILLING CODE 4410-10-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2009-0099]

Public Meeting and Comment Request on MARPOL Reception Facilities

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S. Coast Guard is seeking comments and recommendations from the public for optimizing domestic International Convention for the Prevention of Pollution from Ships (MARPOL) port reception facilities and will conduct a public meeting on the subject on Thursday, March 12, 2009, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. The purpose of the meeting is to assist and complement efforts by the Coast Guard's Chemical Transportation Advisory Committee (CTAC) on implementing MARPOL regulations with respect to providing adequate port/terminal MARPOL reception facilities.

DATES: The public meeting will take place on Thursday, March 12, 2009, from 8:30 a.m. to 11:30 a.m., Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, to provide an opportunity for oral comments. Please note that the meeting may close early if all business is finished. Interested persons wishing to attend the meeting should notify the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) at least 24 hours in advance of the meeting (by 8:30 a.m., March 11, 2009) and include contact information and affiliation of attendee(s). Interested persons wishing to submit written comments for the record should notify the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**) and send such written comments by close of business (COB), March 9, 2009 (see **ADDRESSES**).

ADDRESSES: You may submit comments identified by docket number USCG-2009-0099 using any one of the following methods:

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail David Condino, MARPOL COA Project Manager, telephone 202-372-1145, e-mail:

david.a.condino@uscg.mil; or

Commander Michael Roldan, telephone 202-372-1130, e-mail:

[luis.m.rolდან@uscg.mil](mailto:luis.m.rolدان@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments and related material. 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-2009-0099) 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 telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2009-0099" 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 the comments: To view the comments, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2009-0099 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).

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact David Condino at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Background and Purpose

The public is invited to learn about how wastes from ships are handled at our ports and terminals and to comment on how to improve the Coast Guard's efforts to implement MARPOL requirements to provide adequate reception facilities. The public, commercial interests, local, State, and Federal Agencies, Non-Governmental Organizations (NGOs), public interest groups, trade organizations, and all other interested parties are invited to attend the meeting. The proposed agenda for the meeting will include—

- Introduction and welcome by U.S. Coast Guard;

- A presentation on U.S. Port Reception Facilities and the regulatory framework for the Coast Guard's Certificate of Adequacy (COA) Program for implementing MARPOL regulations for reception facilities;

- Questions and answer period on the COA presentation.

- Presentation of public comments received by the Coast Guard for the record. Note: Interested Parties, having previously submitted written comments for the record, may wish to give an oral presentation summarizing their comments; and

- Oral comments from the public.

The Coast Guard is seeking comments from the general public on MARPOL reception facilities in the U.S. The Coast Guard is specifically interested in identifying all issues that impact implementation of MARPOL requirements for port reception facilities in the U.S. and in obtaining recommendations to address those issues. Issues include—

- Conflicts with other regulations;
- Disposal cost issues at ports/terminals;
- Requirement for lab analysis of wastes;
- Segregation of Annex V wastes;
- Impacts of MARPOL waste collection requirements on local/regional waste disposal capacity and infrastructure;
- Emerging opportunities for business development for reception facilities at ports/terminals; and
- Additional burden, if any, of adopting standardized Advance Notice Forms (ANF) and/or Waste Delivery Receipt (WDR) forms adopted by the International Maritime Organization.

Oral comments made at the meeting will be summarized. The summarized oral comments, along with any prepared comments delivered at the meeting, will be added to the docket number for this notice (USCG-2009-0099). Summarized comments made at the meeting, written comments received prior to the meeting, prepared comments delivered at the meeting, and other relevant documents presented, will be provided to the CTAC subcommittee on MARPOL at the CTAC meeting to be held later this year (see **Federal Register** notice, 73 FR 79496, Dec. 29, 2008, seeking public comments for optimizing MARPOL port reception facilities). Notice of the CTAC public meeting will be given at a later date.

Dated: February 23, 2009.

H. Hime,

Acting Director of Commercial Regulations and Standards.

[FR Doc. E9-4146 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-15-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**[LLAK910000 L13100000.DB0000
LXSINSSI0000]**Second Call for Nominations: North Slope Science Initiative, Science Technical Advisory Panel, Alaska****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Second call for nominations.

SUMMARY: This notice announces a second call for nominations to serve on the North Slope Science Initiative, Science Technical Advisory Panel in accordance with the provisions of the Federal Advisory Committee Act (FACA) of 1972, 5 U.S.C. Appendix. Nominees who answered the first call for nominations published in **Federal Register**, Vol. 73, No. 230, Nov. 28, 2008; do not need to reapply under this Notice.

DATES: Submit a completed nomination form and nomination letter to the address listed below no later than March 30, 2009.

FOR FURTHER INFORMATION CONTACT: John F. Payne, Executive Director; North Slope Science Initiative; c/o Bureau of Land Management, Alaska State Office AK-910; 222 West 7th Avenue, #13; Anchorage, Alaska 99513; phone (907) 271-3431, or john_f_payne@blm.gov.

SUPPLEMENTARY INFORMATION: The purpose of the Science Technical Advisory Panel is to advise the North Slope Science Oversight Group on issues such as identifying and prioritizing inventory, monitoring and research needs, and providing other scientific information as requested by the Oversight Group. The Oversight Group consists of the Alaska Regional Directors of the U.S. Fish and Wildlife Service, National Park Service, Minerals Management Service, and National Marine Fisheries Service; the BLM-Alaska State Director; the Commissioners of the Alaska Departments of Fish and Game and Natural Resources; the Mayor of the North Slope Borough; and the president of the Arctic Slope Regional Corporation. Advisory to the Oversight Group are the Regional Executive, U.S. Geological Survey; Alaska Director, U.S. Arctic Research Commission; and the Regional Directors of the National Weather Service and the U.S. Department of Energy, National Energy Technology Laboratory.

The Science Technical Advisory Panel shall consist of a representative group of not more than 15 scientists and

technical experts from diverse professions and interests, including the oil and gas industry, subsistence users, Alaska Native entities, conservation organizations, and academia, as determined by the Secretary of the Interior. The members will be selected from among, but not limited to, the following disciplines: North Slope traditional and local knowledge, landscape ecology, petroleum engineering, civil engineering, geology, botany, hydrology, limnology, habitat biology, wildlife biology, biometrics, sociology, cultural anthropology, economics, ornithology, oceanography, fisheries biology, and climatology.

The duties of the Science Technical Advisory Panel are solely advisory to the Oversight Group, which will give direction to the Science Panel regarding priorities for scientific information needed for Department of the Interior management decisions. Duties could include the following:

- a. Advise the Oversight Group on science planning and relevant research and monitoring projects;
- b. Advise the Oversight Group on scientific information relevant to the Oversight Group's mission;
- c. Review selected reports to advise the Oversight Group on their content and relevance;
- d. Review ongoing scientific programs of North Slope Science Initiative (NSSI) member organizations at the request of the member organizations to promote compatibility in methodologies and compilation of data;
- e. Advise the Oversight Group on how to ensure that scientific products generated through NSSI activities are of the highest technical quality;
- f. Periodically review the North Slope Science Plan and provide recommendations for changes to the Oversight Group;
- g. Provide recommendations to the Oversight Group for proposed NSSI-funded inventory, monitoring and research activities;
- h. Provide other scientific advice as requested by the Oversight Group; and
- i. Coordinate with groups and committees appointed or requested by the Oversight Group to provide science advice, as needed.

The Executive Director of the North Slope Science Initiative shall serve as the Designated Federal Officer of the Science Technical Advisory Panel.

Qualifications and Procedures Required for Nomination: Members will be professionals with advanced degrees and a minimum of five years of work experience in Alaska in their field of expertise, preferably in the North Slope region. Professionals will be selected

from among those disciplines and entities described above. Members will be appointed for three-year terms. At the discretion of the Secretary of the Interior, Science Technical Advisory Panel members may be reappointed indefinitely.

How To Nominate

Any individual or organization may nominate one or more people to serve on the Science Technical Advisory Panel or individuals may nominate themselves to the Science Technical Advisory Panel. You may obtain nomination forms from the Executive Director, North Slope Science Initiative (see address above), or from <http://www.northslope.org>. To make a nomination, or self nominate, you must submit a completed nomination form with a letter of reference that describes the nominee's qualifications to serve on the Science Technical Advisory Panel. The professional discipline the nominee would like to represent should be identified in the letter of nomination and in the nomination form. Nominees may be scientists and technical experts from diverse professions and interests, including the oil and gas industry, subsistence users, Alaska Native entities, conservation organizations, and academia. Nominees selected to serve on the Science Technical Advisory Panel will serve only in their professional capacity and will not represent any group, agency or entity with whom they may be affiliated.

The Executive Director shall collect the nomination forms and letters of reference and distribute them to the Oversight Group of the North Slope Science Initiative. The Oversight Group will submit its recommendations through the Bureau of Land Management to the Secretary of the Interior, who has the responsibility for making the appointments. Members of the Science Technical Advisory Panel will serve without monetary compensation. Members will be reimbursed for travel and per diem expenses as appropriate, at the current rate for Government employees.

Certification

I hereby certify that the establishment of the Science Technical Advisory Panel for the North Slope Science Initiative is necessary and in the public interest, and in compliance with Section 348, Energy Policy Act of 2005 (Pub. L. 109-58).

Dated: February 18, 2009.

Thomas P. Lonnie,
State Director.

[FR Doc. E9-4140 Filed 2-25-09; 8:45 am]

BILLING CODE 1310-JA-P

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

United States Section; Notice of Intent To Prepare an Environmental Impact Statement, Increased Flood Protection and Partial Realignment of the Presidio Flood Control Project Along Rio Grande on the Texas-Mexico Border

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: This notice advises the public that pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended, the United States Section, International Boundary and Water Commission (USIBWC) intends to prepare an Environmental Impact Statement (EIS) for the proposed action to increase flood protection capability and partial levee realignment of the Presidio Flood Control Project (FCP) along the Texas-Mexico Border. This notice is being provided as required by the Council on Environmental Quality Regulations (40 CFR 1501.7) and the USIBWC's Operating Procedures for Implementing Section 102 of the National Environmental Policy Act (NEPA), to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. A public meeting will be held in the city of Presidio, Texas.

DATES: The USIBWC will conduct a public meeting at the following location and date: City of Presidio, Presidio Activities Center, 1200 East O'Reilly Street, Presidio, Texas 79845 on March 10, 2009, at 5 p.m. CST. Full public participation by interested federal, state, and local agencies, as well as other interested organizations and the general public, is encouraged during the scoping process. The USIBWC anticipates release of the Draft EIS for agency and public review in September 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Borunda, Environmental Protection Specialist, Environmental Management Division, USIBWC, 4171 North Mesa Street, C-100, El Paso, Texas 79932 or e-mail: danielborunda@ibwc.gov.

SUPPLEMENTARY INFORMATION:

Proposed Action

The USIBWC operates and maintains the Presidio Flood Control Project (FCP) located along the Rio Grande within the city of Presidio, Texas. The FCP extends

approximately 15 miles, from Haciendita, upstream of the Rio Conchos confluence, and ending downstream of Presidio near Alamito Creek. In September and October 2008, the Presidio FCP levees sustained major flood damage from overtopping, seepage, and erosion. The USIBWC intends to prepare an EIS to assess impacts associated with rehabilitating the levee system; increasing flood control capability; and partial levee system realignment.

Alternatives

The current Presidio FCP levee system would be rehabilitated for its current level of protection against a 25-year frequency flood, or raised to meet a 100-year flood containment design capacity. Levee height increases would expand the current levee footprint and require additional right-of-way acquisition. In-place rehabilitation is anticipated along approximately 9 miles in the upper reach of the Presidio FCP. Current alignment of the levee system in the upper reach would be retained for levee rehabilitation for raising levee height to reach the 100-year flood containment design capacity. Approximately 6 miles of this segment overlap with an area where the U.S. Department of Homeland Security (DHS) intends to construct border fencing. One option under consideration by DHS is to incorporate a border wall into the USIBWC levee. Along the 6 mile segment in the lower reach of the Presidio FCP, where flood damage was more extensive, a number of levee realignment options are under consideration. To reach the 100-year flood containment design capacity, the primary realignment under consideration is partial levee relocation, approximately 500 feet inland from its current alignment. Other options under consideration are the construction of a new spur levee beginning approximately 1.5 miles downstream of the Railroad Bridge. The proposed spur levee would follow a northeastward alignment and intersect Highway 170.

The NEPA analysis and documentation will identify and evaluate all relevant impacts, conditions, and issues associated with the proposed alternative actions. In considering a range of alternatives, including the no action alternative, the EIS will explain proposed flood protection improvements; identify, describe, and evaluate the existing environmental, cultural, sociological and economical resources; and evaluate the impacts associated with the alternatives under consideration. Significant issues which have been

identified to be addressed in the EIS include but are not limited to impacts to water resources, water quality, cultural and biological resources, and threatened and endangered species. Close coordination will be maintained with the United States Fish and Wildlife Service and the Texas State Historic Preservation Officer to ensure compliance with applicable biological and cultural resources regulations. Other federal and state agencies will also be consulted, as required, to ensure compliance with all applicable federal and state laws and regulations.

Dated: February 20, 2009.

Robert McCarthy,
General Counsel.

[FR Doc. E9-4092 Filed 2-25-09; 8:45 am]

BILLING CODE 7010-01-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Alliance for Flexible Polyurethane Foam, Inc.

Notice is hereby given that, on January 5, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Alliance for Flexible Polyurethane Foam, Inc. ("AFPF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Alliance for Flexible Polyurethane Foam, Inc. ("AFPF"), Loudon, TN. The nature and scope of AFPF's standards development activities are: To develop standards related to flexible polyurethane foam, and to certify flexible polyurethane foam meeting those standards.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-4020 Filed 2-25-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE**Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—American International Recruitment Council**

Notice is hereby given that, on January 27, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”) American International Recruitment Council (“AIRC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: American International Recruitment Council, Cincinnati, OH. The nature and scope of AIRC’s standards development activities are: (i) Develop standards of ethical practice pertaining to recruitment of international students to American educational institutions, such standards to address two constituencies: Educational Institutions and Student Recruitment Agents; (ii) develop best practices and training to assist overseas student recruitment agents and institutions themselves to better serve students seeking admission to American educational institutions, and (iii) establish a framework through which participating agents can have their practices certified.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–4025 Filed 2–25–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE**Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—Electric Utility Industry Sustainable Supply Chain Alliance, Inc.**

Notice is hereby given that, on February 2, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993,

15 U.S.C. 4301 *et seq.* (“the Act”), the Electric Utility Industry Sustainable Supply Chain Alliance, Inc. (“the Alliance”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Electric Utility Industry Sustainable Supply Chain Alliance, Inc., Raleigh, NC. The nature and scope of the Alliance’s standards development activities are to improve the environmental performance of participants in the supply chains utilized by electric utilities, focusing on the development of voluntary consensus standards for evaluating the following: the environmental attributes of key materials and services provided to the electric utility industry; the environmental performance of suppliers to the electric utility industry; and the environmental performance of an electric utility industry company’s supply chain operations.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–4028 Filed 2–25–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE**Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—Industrial Macromolecular Crystallography Association**

Notice is hereby given that, on January 16, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”) Industrial Macromolecular Crystallography Association (“IMCA”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages

under specified circumstances. Specifically, SmithKline Beecham Corporation, operating as Glaxo SmithKline, Philadelphia, PA; and Pfizer Global Research and Development, Groton, CT have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMCA intends to file additional written notifications disclosing all changes in membership.

On October 23, 1990, IMCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 3, 1990 (55 FR 49952).

The last notification was filed with the Department on August 21, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 7, 2007 (72 FR 62865).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–4018 Filed 2–25–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE**Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interchangeable Virtual Instruments Foundation, Inc.**

Notice is hereby given that, on January 21, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”) Interchangeable Virtual Instruments Foundation, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, GCSD Division of Harris Corporation, Melbourne, FL; and California Instruments, San Diego, CA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Interchangeable Virtual Instruments Foundation, Inc. intends to file

additional written notifications disclosing all changes in membership.

On May 29, 2001, Interchangeable Virtual Instruments Foundation, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 30, 2001 (66 FR 39336).

The last notification was filed with the Department on November 3, 2008. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 12, 2008 (73 FR 75771).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-4030 Filed 2-25-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—LiMo Foundation

Notice is hereby given that, on January 5, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), LiMo Foundation ("LiMo") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Marvell International, Ltd., Hamilton, Bermuda, and Telefonica S.A., Madrid, Spain, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of this group research project. Membership in this group research project remains open, and LiMo intends to file additional written notifications disclosing all changes in membership.

On March 1, 2007, LiMo filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 9, 2007 (72 FR 17583).

The last notification was filed with the Department on September 22, 2008. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on October 21, 2008 (73 FR 62542).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-4023 Filed 2-25-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on January 21, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Tabor Electronics Ltd.acher, Tel Hanan, Israel; Corelis, Inc., Cerritos, CA; C&H Technologies, Round Rock, TX; Elma Electronic Inc., Fremont, CA; and SP Devices AB, Linkoping, Sweden have been added as parties to this venture. Also, Viewpoint Systems Inc. Rochester, NY has withdrawn as a party to this venture. The following members have changed their names: TZ Mikroelektronik to Eberspacher Electronics GmbH & Co., KG, Goppingen, Germany; and Spectrum GmbH to Spectrum Systementwicklung Microelectronic GmbH, Grossshansdorf, Germany.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on November 3, 2008. A notice was published in the **Federal Register** pursuant to Section 6(b) of the

Act on December 12, 2008 (73 FR 75772).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-4027 Filed 2-25-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Semiconductor Test Consortium, Inc.

Notice is hereby given that, on January 21, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Semiconductor Test Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ERS Electronic GmbH, Munich, Germany; and esmo AG, Rosenheim, Germany have withdrawn as parties to this venture. Also, the following member has changed its name: Tensolite to Carlisle Interconnect Technologies, St. Augustine, FL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Semiconductor Test Consortium, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 27, 2003, Semiconductor Test Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 17, 2003 (68 FR 35913).

The last notification was filed with the Department on November 3, 2008. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 12, 2008 (73 FR 75772).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-4031 Filed 2-25-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF JUSTICE**Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Diesel Aftertreatment Accelerated Aging Cycles—Heavy-Duty**

Notice is hereby given that, on February 2, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Southwest Research Institute Cooperative Research Group on Diesel Aftertreatment Accelerated Aging Cycles—Heavy-Duty (“DAAAC-HD”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Doosan Infracore, Incheon, Republic of Korea; Isuzu Motors Limited, Kanagawa-ken, Japan; Lubrizol Corporation, Wickliffe, OH; MTtJ, Friedrichshafen, Germany; Navistar Inc., Melrose Park, IL; Scania, Sodertalje, Sweden; and Umicore, Catoosa, OK. The purpose and the nature of DAAAC-HD is to develop a methodology and procedures for accelerating heavy duty diesel aftertreatment systems aging for heavy-duty diesel engine applications, such as emission components and systems. The procedures to be developed will aim to dramatically shorten durability testing times. In addition, these procedures can be used by the industry to determine the most effective emissions systems for their heavy-duty diesel engine applications. It is anticipated that the central component of the accelerated aging procedure will be a cycle that would expose diesel aftertreatment systems to exhaust at an elevated temperature. In addition, such exhaust will have a chemical composition that would accelerate the aftertreatment system aging.

Membership in this research group remains open, and DAAAC-HD intends to file additional written notification

disclosing all changes in membership or planned activities.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9-4026 Filed 2-25-09; 8:45 am]

BILLING CODE 4410-11-M

DEPARTMENT OF LABOR**Bureau of Labor Statistics****Proposed Collection, Comment Request**

ACTION: Notice.

AGENCY: Bureau of Labor Statistics, Department of Labor.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the “National Longitudinal Survey of Youth 1997.” A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed 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 27, 2009.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, 202-691-7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, 202-691-7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The National Longitudinal Survey of Youth 1997 (NLSY97) is a nationally representative sample of persons who were born in the years 1980 to 1984.

These respondents were ages 12–17 when the first round of annual interviews began in 1997; the thirteenth round of annual interviews will be conducted from September 2009 to May 2010. The Bureau of Labor Statistics (BLS) contracts with the National Opinion Research Center (NORC) at the University of Chicago to conduct the NLSY97. The primary objective of the survey is to study the transition from schooling to the establishment of careers and families. The longitudinal focus of this survey requires information to be collected from the same individuals over many years in order to trace their education, training, work experience, fertility, income, and program participation.

One of the goals of the Department of Labor (DOL) is to produce and disseminate timely, accurate, and relevant information about the U.S. labor force. The BLS contributes to this goal by gathering information about the labor force and labor market and disseminating it to policymakers and the public so that participants in those markets can make more informed, and thus more efficient, choices. Research based on the NLSY97 contributes to the formation of national policy in the areas of education, training, employment programs, and school-to-work transitions. In addition to the reports that the BLS produces based on data from the NLSY97, members of the academic community publish articles and reports based on NLSY97 data for the DOL and other funding agencies. To date, more than 90 articles examining NLSY97 data have been published in scholarly journals. The survey design provides data gathered from the same respondents over time to form the only data set that contains this type of information for this important population group. Without the collection of these data, an accurate longitudinal data set could not be provided to researchers and policymakers, thus adversely affecting the DOL’s ability to perform its policy- and report-making activities.

II. Current Action

The BLS seeks approval to conduct round 13 of annual interviews of the NLSY97. Respondents to the NLSY97 will undergo an interview of approximately 65 minutes during which they will answer questions about schooling and labor market experiences, family relationships, and community background.

During the fielding period for the main round 13 interviews, about 2 percent of respondents will be asked to participate in a brief validation

interview a few weeks after the initial interview. The purpose of the validation interview is to verify that the initial interview took place as the interviewer reported and to assess the data quality of selected questionnaire items.

The BLS proposes to record randomly selected segments of the main interviews during round 13. Recording interviews helps the BLS and NORC to ensure that the interviews actually took place and that interviewers are reading the questions exactly as worded and entering the responses properly. Recording also helps to identify parts of the interview that might be causing problems or misunderstandings for interviewers or respondents. Each respondent will be informed that the interview may be recorded for quality control, training, and research purposes. If the respondent objects to the recording of the interview, the interviewer will confirm to the respondent that the interview will not be recorded and then proceed with the interview.

During round 13, the BLS proposes to administer a noninterview respondent questionnaire to sample members who have missed at least 5 consecutive rounds and who do not complete the round 13 interview on first approach. Responses to this questionnaire will

enable the BLS and NORC to learn more about long-term nonrespondents and therefore understand attrition patterns and any nonresponse bias. Other changes in round 13 include collecting permission forms from respondents to obtain their college transcripts. Permission forms will be sought from respondents who have received a high school diploma or General Education Development (GED) credential or completed coursework in a postsecondary degree program. Collection of permission forms is contingent on available funding.

The round 13 questionnaire includes questions on workplace injuries and illnesses and on exercise activity, diet and nutrition, and oral health. The questionnaire also includes additional questions on days of work missed due to emotional or mental health problems. Respondents who report serving on active military duty will be asked a series of questions on their military service. Military veterans also will be asked about their experience with programs designed to help service members make the transition from military to civilian life.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- 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.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: National Longitudinal Survey of Youth 1997.

OMB Number: 1220-0157.

Affected Public: Individuals or households.

Form	Total respondents	Frequency	Total responses	Average time per response (min)	Estimated total burden (hours)
NLSY97 Pretest: June–July 2009	150	Annually	150	65	163
Main NLSY97: September 2009–May 2010	7,350	Annually	7,350	65	7,963
Round 13 Validation Interview	147	Annually	147	4	10
Noninterview Respondent Questionnaire	120	Annually	120	10	20
College Transcript Release Form	6,311	Once	6,311	1.5	158
Total	7,620	14,078	8,314

The difference between the total number of respondents and the total number of responses reflects the fact that about 6,311 are expected to complete the main interview and the college transcript release form. In addition, about 147 respondents will be interviewed twice, once in the main survey and a second time in the 4-minute validation interview.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 18th day of February, 2009.

Cathy Kazanowski,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. E9-4101 Filed 2-25-09; 8:45 am]

BILLING CODE 4510-24-P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 09-08]

Notice of the March 11, 2009 Millennium Challenge Corporation Board of Directors Meeting; Sunshine Act Meeting

AGENCY: Millennium Challenge Corporation.

TIME AND DATE: 10 a.m. to 12 p.m., Wednesday, March 11, 2009.

PLACE: Department of State, 2201 C Street, NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Information on the meeting may be obtained from Romell Cummings via e-

mail at Board@mcc.gov or by telephone at (202) 521-3600.

STATUS: Meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The Board of Directors (the "Board") of the Millennium Challenge Corporation ("MCC") will hold a meeting to consider the selection of countries that will be eligible for FY 2009 Millennium Challenge Account ("MCA") assistance under Section 607 of the Millennium Challenge Act of 2003 (the "Act"), codified at 22 U.S.C. 7706, and Threshold Program assistance under Section 616 of the Act (22 U.S.C. 7715); discuss progress on proposed Compacts with certain MCA-eligible countries;

discuss MCC's proposed policy on suspension, remediation, and termination of assistance and eligibility; and certain administrative matters. The agenda items are expected to involve the consideration of classified information and the meeting will be closed to the public.

Henry C. Pitney,

(Acting) Vice President and General Counsel,
Millennium Challenge Corporation.

[FR Doc. E9-4252 Filed 2-24-09; 4:15 pm]

BILLING CODE 9211-03-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 09-013]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant a Partially Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license to practice the inventions described and claimed in NASA Case Numbers LAR-15318-1 entitled "Apparatus And Method For Measuring Strain In Bragg Gratings," U.S. Patent Number 5,798,521; LAR-15508-1 entitled "Apparatus and Method for Measuring Strain in Optical Fibers Using Rayleigh Scatter," U.S. Patent Number 6,545,760; LAR-15934-1 entitled "Edge Triggered Apparatus and Method for Measuring Strain In Bragg Gratings," U.S. Patent Number 6,566,648; LAR-16005-1 entitled "High Precision Wavelength Monitor For Tunable Laser Systems," U.S. Patent Number 6,426,496; LAR-16005-1-EP entitled "High Precision Solid State Wavelength Monitor for Tunable Laser Systems," Foreign Patent Number EP1311814B1; and LAR-16005-1-CA entitled "High Precision Solid State Wavelength Monitor for Tunable Laser Systems," Foreign Patent Application Serial Number 2,420,299 to Luna Innovations Incorporated having its principal place of business in Roanoke, Virginia. The field of use may be limited to shape sensing in medical robotics. The patent rights have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 141, Hampton, VA 23681; (757) 864-9260 (phone), (757) 864-9190 (fax).

FOR FURTHER INFORMATION CONTACT: Robin W. Edwards, Patent Attorney, Office of Chief Counsel, NASA Langley Research Center, MS 141, Hampton, VA 23681; (757) 864-3230; Fax: (757) 864-9190. Information about other NASA inventions available for licensing can be found online at <http://technology.nasa.gov/>.

Dated: February 19, 2009.

Richard W. Sherman,

Deputy General Counsel.

[FR Doc. E9-4076 Filed 2-25-09; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09-014)]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Privacy Act system of records.

SUMMARY: NASA provides this required information for a new system of records related to NASA's aeronautics scholarship program. The aeronautics scholarship program offers undergraduate and graduate level scholarships for students pursuing degrees in aeronautics related disciplines to improve the future aerospace workforce. In part the collection of this data is congressionally mandated as stated in 42 U.S.C. 16741, Public Law 109-155, Title IV, 431, Dec.

30, 2005, 119 Stat. 2927, NASA Aeronautics Scholarships (for graduate level scholarships), to better serve the aerospace community and the country in support of expanding the requirements of graduate masters level scholarships to include undergraduate, masters and doctoral level scholarships. The information provided will be used in the selection of students for the aeronautics scholarship program and for subsequent administration of the aeronautics scholarship program including the tracking of funding of the scholarships.

DATES: Submit comments on or before 60 calendar days from the date of this publication.

ADDRESSES: NASA Privacy Act Officer, Patti Stockman, 202-358-4787, NASA-PAOfficer@nasa.gov.

FOR FURTHER INFORMATION CONTACT: Patti Stockman, Office of the Chief Information Officer, NASA Headquarters, 300 E Street, SW., Washington, DC 20546-0001, 202-358-4787, NASA-PAOfficer@nasa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to Section 208 of the E-Government Act of 2002, NASA has conducted a Privacy Impact Assessment (PIA) for this system. A copy of the PIA can be obtained by contacting the NASA Privacy Act Officer at the address listed below.

System Number: NASA 10NASP.

System Name: NASA Aeronautics Scholarship Program.

Security Classification: None.

System Location: The American Society for Engineering Education (ASEE) 1818 N. Street, NW., Suite 600, Washington, DC 20036 and location 1 as set forth in Appendix A.

Categories of Individuals Covered by the System

Non-NASA individuals, typically college students, applying for or selected for the Aeronautics Scholarship Program.

Categories of Records in the System

Records in the system include identifying information about scholarship applicants and recipients, including name, social security number, bank account and routing number information, bank address, date of birth, citizenship, mailing address, e-mail address, telephone, academic records, and Graduate Record Examination (GRE) scores, research proposal, and personal references.

Authority for Maintenance of the System

NASA Aeronautics Scholarships (for graduate level scholarship), 42 U.S.C.

16741, Public Law 109–155, title IV, 431, Dec. 30, 2005, 119 Stat. 2927; National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2473; Federal Records Act of 1950, as amended, 44 U.S.C. 3101; 5 U.S.C. 4101 *et seq.*

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses

1. Records from this system may be disclosed to authorized contractors who are responsible for administration of the scholarship program, including facilitation of the award selection process, issuance of award payments, maintenance of records, and other functions supporting the operation of the program.

2. Records from this system in the form of scholarship recipients' names and college affiliations will be made available to the public via the Internet to publicize the winners of NASA scholarship awards.

3. NASA standard routine uses 1 through 6 as set forth in Appendix B.

Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records in the System

Storage

Stored on a secure server as electronic records. Printed reports from the system are maintained in locked rooms or file cabinets.

Retrievability

By the individual's name, identification number, social security number bank routing number, zip code, institution, state or grade level.

Safeguards

Access is limited to ASEE authorized personnel only on a need-to-know basis. Computerized records are protected via limited user accounts with secure user authentication and non-electronic records are maintained in locked rooms or files. Functional user roles are established and access is limited based upon these roles. An IT Security analysis of the system was conducted as required by FIPS 199 and applicable security controls implemented in accordance with Federal Information Processing Standard (FIPS) 853.

Retention and Disposal

Records are retained and dispositioned in accordance with the guidelines defined in NASA Procedural Requirements (NPR) 1441.1 and NASA Records Retention Schedules, Schedule 1, item 32.

System Manager and Address

System Manager, Aeronautics Scholarship Program, Aeronautics Research Mission Directorate, Appendix A, Location 1.

Notification Procedure

Individuals interested in inquiring about their records should notify the System Manager at the address given above.

Record Access Procedures

Individuals interested in inquiring about their records should notify the System Manager at the address given above.

Contesting Record Procedures

The NASA regulations for access to records and for contesting contents and appealing initial determinations by the individual concerned appears in 14 CFR part 1212.

Record Source Categories

The information is obtained directly from the individual program applicants.

Exemptions Claimed for the System

None.

Bobby L. German,

Acting NASA Chief Information Officer.

Appendix A

Location Numbers and Mailing Addresses of NASA Installations at Which Records Are Located

Location 1

NASA Headquarters, National Aeronautics and Space Administration Washington, DC 20546–0001.

Location 2

Ames Research Center, National Aeronautics and Space Administration, Moffett Field, CA 94035–1000.

Location 3

Dryden Flight Research Center, National Aeronautics and Space Administration, P.O. Box 273, Edwards, CA 93523–0273.

Location 4

Goddard Space Flight Center, National Aeronautics and Space Administration, Greenbelt, MD 20771–0001.

Location 5

Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058–3696.

Location 6

John F. Kennedy Space Center, National Aeronautics and Space Administration, Kennedy Space Center, FL 32899–0001.

Location 7

Langley Research Center, National Aeronautics and Space Administration, Hampton, VA 23681–2199.

Location 8

John H. Glenn Research Center at Lewis Field, National Aeronautics and Space Administration, 21000 Brookpark Road, Cleveland, OH 44135–3191.

Location 9

George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812–0001.

Location 10

HQ NASA Management Office-JPL, National Aeronautics and Space Administration, 4800 Oak Grove Drive, Pasadena, CA 91109–8099.

Location 11

John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, MS 39529–6000.

Location 12

JSC White Sands Test Facility, National Aeronautics and Space Administration, P.O. Drawer MM, Las Cruces, NM 88004–0020.

Location 13

GRC Plum Brook Station, National Aeronautics and Space Administration, Sandusky, OH 44870.

Location 14

MSFC Michoud Assembly Facility, National Aeronautics and Space Administration, P.O. Box 29300, New Orleans, LA 70189.

Location 15

NASA Independent Verification and Validation Facility (NASA IV&V), 100 University Drive, Fairmont, WV 26554.

Location 16

Office of Inspector General, Post of Duty, 402 E. State Street, Suite 3036, Trenton, NJ 08608.

Location 17

Office of Inspector General, Western Field Office, Glenn Anderson Federal Building, 501 West Ocean Blvd., Long Beach, CA 90802–4222.

Location 18

NASA Shared Services Center (NSSC), Building 5100, Stennis Space Center, MS 39529-6000.

Appendix B*Standard Routine Uses—NASA*

The following routine uses of information contained in Systems of Records (SORs), subject to the Privacy Act of 1974, are standard for many NASA systems. They are cited by reference in the paragraph "Routine uses of records maintained in the system, including categories of users and the purpose of such uses" of the **Federal Register** Notice on those systems to which they apply.

Standard Routine Use No. 1—Law Enforcement

In the event this SOR indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the SOR may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Standard Routine Use No. 2—Disclosure When Requesting Information

A record from this SOR may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Standard Routine Use No. 3—Disclosure of Requested Information

A record from this SOR may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Standard Routine Use No. 4—Disclosure to the Department of Justice for Use in Litigation

A record from this SOR may be disclosed to the Department of Justice when (a) the Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use 5—Routine Use for Agency Disclosure in Litigation

It shall be a routine use of the records in this SOR to disclose them in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when: (a) The Agency, or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Agency is deemed to be relevant and necessary to the litigation, provided, however, that in each case, the Agency has determined that the disclosure is compatible with the purpose for which the records were collected.

Standard Routine Use No. 6—Suspected or Confirmed Confidentiality Compromise

A record from this SOR may be disclosed to appropriate agencies, entities, and persons when (1) NASA suspects or has confirmed that the security or confidentiality of information in the SOR has been compromised; (2) NASA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether

maintained by NASA or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NASA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

[FR Doc. E9-4079 Filed 2-25-09; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL SCIENCE FOUNDATION**Notice of Intent To Extend an Information Collection**

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by April 27, 2009 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

For Additional Information or Comments: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292-7556; or send e-mail to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Request for Proposals.

OMB Approval Number: 3145-0080.

Expiration Date of Approval: June 30, 2009.

Type of Request: Intent to seek approval to extend an information collection for three years.

Proposed Project: The Federal Acquisition Regulations (FAR) Subpart 15.2—"Solicitation and Receipt of Proposals and Information" prescribes policies and procedures for preparing and issuing Requests for Proposals. The FAR System has been developed in accordance with the requirement of the Office of Federal Procurement Policy Act of 1974, as amended. The NSF Act of 1950, as amended, 42 U.S.C. 1870, Sec. II, states that NSF has the authority to:

(c) Enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific or engineering activities as the Foundation deems necessary to carry out the purposes of this Act, and, at the request of the Secretary of Defense, specific scientific or engineering activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements or modifications thereof, may be entered into without legal consideration, without performance or other bonds and without regard to section 5 of title 41, U.S.C.

Use of the Information: Request for Proposals (RFP) is used to competitively solicit proposals in response to NSF need for services. Impact will be on those individuals or organizations who elect to submit proposals in response to the RFP. Information gathered will be evaluated in light of NSF procurement requirements to determine who will be awarded a contract.

Estimate of Burden: The Foundation estimates that, on average, 558 hours per respondent will be required to complete the RFP.

Respondents: Individuals; business or other for-profit; not-for-profit institutions; Federal government; state, local, or tribal governments.

Estimated Number of Responses: 75.

Estimated Total Annual Burden on Respondents: 41,850 hours.

Dated: February 20, 2009.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E9-4072 Filed 2-25-09; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Responsible Conduct of Research

AGENCY: National Science Foundation (NSF).

ACTION: Request for public comment on requirement for students and postdoctoral researchers involved in NSF proposals to be educated in the responsible and ethical conduct of research (RCR).

SUMMARY: The National Science Foundation (NSF) is soliciting public comment on the agency's proposed implementation of Section 7009 of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Act (42 U.S.C. 1862o-1). This section of the Act requires that "each institution that applies for financial assistance from the Foundation for science and engineering research or education describe in its grant proposal a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate students, graduate students, and postdoctoral researchers participating in the proposed research project."

SUPPLEMENTARY INFORMATION: Ethical and responsible conduct of research is critical for excellence, as well as public trust, in science and engineering. Consequently, education in the responsible and ethical conduct of research is considered essential in the preparation of future scientists and engineers. The COMPETES Act focuses public attention on the importance of the national research community's enduring commitment and broader efforts to provide RCR training as an integral part of the preparation and long-term professional development of current and future generations of scientists and engineers.

A wide array of information exists to help inform RCR training. For example, many professional societies as well as governmental licensing authorities for professional scientists and engineers have adopted policies or best practices that might be usefully considered. In addition, research is illuminating existing practices surrounding ethical issues, and providing an evaluation of pedagogical innovations in ethics

education. A recent NSF-funded workshop entitled *Ethics Education: What's Been Learned? What Should be Done?* was held by the National Academies of Science & Engineering. Information about the workshop, as well as additional resources, are available at: <http://www.nae.edu/nae/engethicscen.nsf/weblinks/NKAL-7LHM86?OpenDocument>. A brief notice about the workshop's main themes is forthcoming in *The Bridge*, Volume 39, Number 1—Spring 2009, which will be available online in mid-March at: <http://www.nae.edu/nae/bridgecom.nsf?OpenDatabase>. NSF is adding "the responsible and ethical conduct of research" as a Representative Activity in the listing of Broader Impacts Representative Activities available electronically at <http://www.nsf.gov/pubs/gpg/broaderimpacts.pdf>.

NSF is committed to continue its funding of research in this important area through programs such as *Ethics Education in Science and Engineering* (http://www.nsf.gov/funding/pgm_summ.jsp?pims_id=13338&org=NSF&sel_org=NSF&from=fund) and to promote the development and implementation of effective practices through its education and training programs. The agency will also continue to explore other mechanisms to support the academic community's efforts in providing training in the responsible and ethical conduct of research.

Proposed Implementation Plan: Effective October 1, 2009, NSF will require that at the time of proposal submission to NSF, a proposing institution's Authorized Organizational Representative must certify that the institution has a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduates, graduate students, and postdoctoral researchers who will be supported by NSF to conduct research. While training plans are not required to be included in proposals submitted, institutions are advised that they are subject to review upon request. NSF will modify its standard award conditions to clearly stipulate that institutions are responsible for verifying that undergraduate students, graduate students, and postdoctoral researchers supported by NSF to conduct research have received RCR training.

In addition, NSF will support the development of an online digital library containing research findings, pedagogical materials, and promising practices regarding the ethical and responsible conduct of research in science and engineering. The

development and evolution of the digital library will be informed by the research communities that NSF supports, and it will serve as a living resource of multimedia materials that may be used to train current and future generations of scientists and engineers in the responsible and ethical conduct of research.

Invitation to Comment: The Foundation welcomes public comment on any aspect of the proposed Implementation Plan. Issues that responders may wish to address include, but are not limited to, the following:

- What challenges do institutions face in meeting the new RCR requirement?
- What role should Principal Investigators play in meeting NSF's RCR requirement?
- There are likely to be differences in the RCR plans that institutions develop to respond to this new requirement. What are the pros and cons of exploring a diversity of approaches?
- How might online resources be most effective in assisting with training students and postdocs in the responsible and ethical conduct of research?
- Discuss possible approaches to verifying that the requisite RCR training has been provided.

Comments: Comments regarding NSF's proposed implementation should be e-mailed to RCRinput@nsf.gov by March 31, 2009. Please include your comments in the body of the e-mail and in an attachment. Include your name, title, organization, postal address, telephone number, and e-mail address in your message.

FOR FURTHER INFORMATION CONTACT: For information on the NSF's implementation of the America COMPETES Act, contact Jean Feldman; Head, Policy Office, Division of Institution & Award Support; National Science Foundation; 4201 Wilson Blvd.; Arlington, VA 22230; e-mail: jfeldman@nsf.gov; telephone: (703) 292-8243; fax: (703) 292-9171.

Dated: February 23, 2009.

Suzanne H. Plimpton,
Reports Clearance Officer, National Science Foundation.

[FR Doc. E9-4100 Filed 2-25-09; 8:45 am]

BILLING CODE 7555-01-P

OFFICE OF MANAGEMENT AND BUDGET

Federal Regulatory Review

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Request for comments.

SUMMARY: The Director of the Office of Management and Budget (OMB) is developing a set of recommendations to the President for a new Executive Order on Federal Regulatory Review, and invites public comments on how to improve the process and principles governing regulation.

DATES: Comments must be in writing and received by March 16, 2009.

ADDRESSES: Submit comments by one of the following methods:

- *E-mail:*
oira_submission@omb.eop.gov.
- *Fax:* (202) 395-7245.
- *Mail:* Office of Information and Regulatory Affairs, Records Management Center, Office of Management and Budget, Attn: Mabel Echols, Room 10102, NEOB, 725 17th Street, NW., Washington, DC 20503. We are still experiencing delays in the regular mail, including first class and express mail. To ensure that your comments are received on time, we recommend that comments be electronically submitted.

All comments submitted in response to this notice will be made available to the public on OMB's Web site. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an e-mail comment directly to OMB, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet.

FOR FURTHER INFORMATION CONTACT: Mabel Echols, Office of Information and Regulatory Affairs, Records Management Center, Office of Management and Budget, Room 10102, NEOB, 725 17th Street, NW., Washington, DC 20503. Telephone: (202) 395-6880.

FOR FURTHER INFORMATION CONTACT: Mabel Echols, Office of Information and Regulatory Affairs, Records Management Center, Office of Management and Budget, Room 10102, NEOB, 725 17th Street, NW., Washington, DC 20503. Telephone: (202) 395-6880.

SUPPLEMENTARY INFORMATION: For well over two decades, the Office of Information and Regulatory Affairs (OIRA) at OMB has reviewed Federal regulations. The purposes of such review have been to ensure consistency with Presidential priorities, to coordinate regulatory policy, and to offer a dispassionate and analytical "second opinion" on agency actions.

In a recent Memorandum for the Heads of Executive Departments and Agencies, published in the **Federal Register** [74 FR 5977], the President directed the Director of OMB to produce a set of recommendations for a new Executive Order on Federal regulatory review. Among other things, he stated

that the recommendations should offer suggestions for the following:

- The relationship between OIRA and the agencies;
- Disclosure and transparency;
- Encouraging public participation in agency regulatory processes;
- The role of cost-benefit analysis;
- The role of distributional considerations, fairness, and concern for the interests of future generations;
- Methods of ensuring that regulatory review does not produce undue delay;
- The role of the behavioral sciences in formulating regulatory policy; and
- The best tools for achieving public goals through the regulatory process.

Executive Orders are not subject to notice and comment procedures, and as a general rule, public comment is not formally sought before they are issued. In this case, however, there has been an unusually high level of public interest, and because of the evident importance and fundamental nature of the relevant issues, the Director of OMB invites public comments on the principles and procedures governing regulatory review. These comments will be read and considered seriously even though no responses will be given.

This public process is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Kevin F. Neyland,

Acting Administrator, Office of Information and Regulatory Affairs.

[FR Doc. E9-4080 Filed 2-25-09; 8:45 am]

BILLING CODE 3110-01-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Trade Advisory Committee on Small and Minority Business (ITAC-11)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of a partially opened meeting.

SUMMARY: The Industry Trade Advisory Committee on Small and Minority Business (ITAC-11) will hold a meeting on Monday, March 23, 2009, from 9 a.m. to 3:30 p.m. The meeting will be closed to the public from 9 a.m. to 12:30 p.m. and opened to the public from 1 p.m. to 3:30 p.m.

DATES: The meeting is scheduled for March 23, 2009, unless otherwise notified.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Laura Hellstern, DFO for ITAC-11 at (202) 482-3222, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the following agenda items will be considered.

- Status of U.S. Commercial Service Activities for FY09.
- The TPCC Agencies and Their Role in Export Promotion and Trade Policy.

Christina R. Sevilla,

Acting Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. E9-4138 Filed 2-25-09; 8:45 am]

BILLING CODE 3190-W9-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-28619; File No. 812-13515]

MainStay VP Series Fund, Inc.

February 20, 2009.

AGENCY: Securities and Exchange Commission "SEC" or "Commission".

ACTION: Notice of application for an order pursuant to Section 6(c) of the Investment Company Act of 1940, as amended, (the "Act") granting relief from the provisions of Section 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

APPLICANTS: MainStay VP Series Fund, Inc. (the "Fund") and New York Life Investment Management LLC ("NYLIM") (together the "Applicants").

FILING DATE: The application was filed on April 2, 2008, and amended and restated applications were filed on November 20, 2008 and February 17, 2009.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 18, 2009, and should be accompanied by proof of service on Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the

reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Applicants: Marguerite E.H. Morrison, New York Life Investment Management LLC, 51 Madison Avenue, New York, NY 10010, with a copy to Christopher E. Palmer, Goodwin Procter LLP, 901 New York Avenue, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Patrick Scott, Senior Counsel, at 202-551-6763, or Zandra Bailes, Branch Chief, Office of Insurance Products, Division of Investment Management, Commission SEC at (202) 551-6975.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 100 F Street, NE., Washington, DC 20549 (tel. (202) 551-8090).

SUMMARY OF APPLICATION: Applicants seek exemption of each life insurance company separate account supporting variable life insurance contracts ("VLI Accounts") (and its insurance company depositor) that may invest in shares of the Fund or a "future fund" as defined below, from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) (or any comparable provisions of a permanent rule that replaces Rule 6e-3(T)(b)(15)) thereunder to the extent necessary to permit such VLI Accounts to hold shares of the Fund or a future fund when one or more of the following other types of investors also hold shares of the Fund or a future fund: (1) Life insurance company separate accounts supporting variable annuity contracts ("VA Accounts"), whether or not the life insurance company is an affiliated person of the insurance company depositor of any VLI Account, (2) VLI Accounts supporting scheduled or flexible premium variable life insurance contracts, whether or not the life insurance company is an affiliated person of the insurance company depositor of any other VLI Account, (3) general accounts of insurance company depositors of VA Accounts and/or VLI Accounts, (4) the Fund's investment adviser or future fund's investment adviser (or an affiliated person of the investment adviser), or (5) qualified group pension plans and group retirement plans ("Plans") in accordance with Section 817(h) of the Internal Revenue Code (the "Code") and the U.S. Treasury regulations and

Internal Revenue Service guidelines thereunder, as described in more detail below, outside the separate account context. A "future fund" is any investment company (or investment portfolio or series thereof), other than the Fund, shares of which are sold to VLI Accounts and to which NYLIM or its affiliates may in the future serve as investment adviser, investment subadviser, investment manager, administrator, principal underwriter or sponsor. Investment portfolios or series of the Fund or any future fund are referred to herein as "Insurance Funds."

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 100 F Street, NE., Washington, DC 20549, (202) 551-8090.

Applicants' Representations:

1. The Fund was formed as a Maryland corporation on June 3, 1983. The Fund was formerly known as the New York Life MFA Series Fund, Inc. On August 22, 1996, the Fund's name changed to its present form. The Fund is registered under the Act as an open-end management investment company (Reg. File No. 811-03833-01). The Fund is a series investment company as defined by Rule 18f-2 under the Act and is currently comprised of twenty-four series ("Portfolios"): (1) MainStay VP Balanced Portfolio, (2) MainStay VP Bond Portfolio, (3) MainStay VP Capital Appreciation Portfolio, (4) MainStay VP Cash Management Portfolio, (5) MainStay VP Common Stock Portfolio, (6) MainStay VP Conservative Allocation Portfolio, (7) MainStay VP Convertible Portfolio, (8) MainStay VP Developing Growth Portfolio, (9) MainStay VP Floating Rate Portfolio, (10) MainStay VP Government Portfolio, (11) MainStay VP Growth Allocation Portfolio, (12) MainStay VP High Yield Corporate Bond Portfolio, (13) MainStay VP ICAP Select Equity Portfolio, (14) MainStay VP International Equity Portfolio, (15) MainStay VP Large Cap Growth Portfolio, (16) MainStay VP Mid Cap Core Portfolio, (17) MainStay VP Mid Cap Growth Portfolio, (18) MainStay VP Mid Cap Value Portfolio, (19) MainStay VP Moderate Allocation Portfolio, (20) MainStay VP Moderate Growth Allocation Portfolio, (21) MainStay VP S&P 500 Index Portfolio, (22) MainStay VP Small Cap Growth Portfolio, (23) MainStay VP Total Return Portfolio, and (24) MainStay VP Value Portfolio. The Fund issues a separate series of shares of beneficial interest for each Portfolio and has filed a registration statement under the

Securities Act of 1933 (the "1933 Act") on Form N-1A (Reg. File No. 002-86082) to register such shares. The Fund may establish additional Portfolios in the future and additional classes of shares for such Portfolios.

2. The Fund currently sells its shares to both VLI Accounts and VA Accounts (together, "Accounts") of affiliated life insurance companies in reliance on an order from the Commission. Applicants seek relief so that the Fund and future funds may offer each series of their shares to: (a) VLI Accounts and VA Accounts of both affiliated and unaffiliated life insurance companies; (b) insurance company depositors of VLI Accounts and/or VA Accounts investing in one or more Insurance Funds through their general accounts; (c) NYLIM and any other investment advisers to one or more Insurance Funds (or their affiliates); and (d) Plans.

3. Each VLI Account and VA Account is or will be established as a segregated asset account by New York Life Insurance and Annuity Corporation ("New York Life"), an insurance company affiliated with New York Life, or a life insurance company not affiliated with New York Life (New York Life, life insurance companies affiliated with New York Life, and life insurance companies not affiliated with New York Life are each referred to as a "Participating Insurance Company" and collectively as the "Participating Insurance Companies") pursuant to the insurance law of the insurance company's state of domicile. As such, the assets of each will be the property of the Participating Insurance Company, and that portion of the assets of such an Account equal to the reserves and other contract liabilities with respect to the Account will not be chargeable with liabilities arising out of any other business that the insurance company may conduct. The income, gains and losses, realized or unrealized from such an Account's assets will be credited to or charged against the Account without regard to other income, gains or losses of the Participating Insurance Company. If a VLI Account or VA Account is registered as an investment company, it will be a "separate account" as defined by Rule 0-1(e) (or any successor rule) under the Act and will be registered as a unit investment trust. For purposes of the Act, the life insurance company that establishes such a registered VLI Account or VA Account is the depositor and sponsor of the Account as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

4. Currently, the Fund sells its shares only to certain Accounts of New York Life, a wholly-owned subsidiary of New York Life Insurance Company. New York Life is an affiliated person of NYLIM and the Fund. Currently, the Fund sells its shares to the following VLI Accounts and VA Accounts of New York Life: NYLIAC Variable Annuity Separate Account-I; NYLIAC Variable Annuity Separate Account-II; NYLIAC Variable Annuity Separate Account-III; NYLIAC Variable Annuity Separate Account-IV; NYLIAC MFA Separate Account-I; NYLIAC MFA Separate Account-II; NYLIAC Variable Universal Life Separate Account-I; NYLIAC Corporate Sponsored Variable Universal Life Separate Account-I; and New York Life Insurance and Annuity Corporation VLI Separate Account. In the future, an Insurance Fund may sell its shares to additional separate accounts of New York Life and/or separate accounts of other Participating Insurance Companies.

5. NYLIM serves as the investment adviser to the Fund and each of its Portfolios. NYLIM is a Delaware limited liability company and is registered as an investment adviser under the Investment Advisers Act of 1940. NYLIM is a subsidiary of New York Life. Under the supervision of the Fund's board of directors, NYLIM is responsible for all investment decisions for the Portfolios. Subject to approval of the Fund's board of directors, NYLIM may delegate certain advisory functions, including securities selection, to one or more subadvisers.

6. The Fund proposes to offer and sell its shares (and a future fund would offer and sell its shares) to VLI Accounts and VA Accounts of various Participating Insurance Companies as an investment medium to support variable life insurance contracts ("VLI Contracts") and variable annuity contracts ("VA Contracts") (together, "Variable Contracts") issued through such Accounts. As described more fully below, the Fund (or a future fund) will only sell its shares to registered VLI Accounts and registered VA Accounts if each Participating Insurance Company sponsoring such a VLI Account or VA Account enters into a participation agreement with the Fund (or a future fund). The participation agreements will define the relationship between the Fund (or a future fund) and a Participating Insurance Company and will memorialize, among other matters, the fact that, except where the agreement specifically provides otherwise, the Participating Insurance Company will remain responsible for establishing and maintaining any VLI

Account or VA Account covered by the agreement and for complying with all applicable requirements of state and federal law pertaining to such Accounts and to the sale and distribution of Variable Contracts issued through such Accounts. The participation agreements also will memorialize, among other matters, the fact that, unless the agreement specifically states otherwise, the Fund (or a future fund) will remain responsible for establishing and maintaining any Insurance Fund covered by the agreement, for complying with all applicable requirements of state and federal law pertaining to such Insurance Funds and to the offer and sale of its shares to VLI Accounts and VA Accounts covered by the agreement, and for compliance with the conditions stated in the application.

7. The use of a common management investment company (or investment portfolio thereof) as an investment medium for both VLI Accounts and VA Accounts of the same Participating Insurance Company, or of two or more insurance companies that are affiliated persons of each other, is referred to herein as "mixed funding." The use of a common management investment company (or investment portfolio thereof) as an investment medium for VLI Accounts and/or VA Accounts of two or more Participating Insurance Companies that are not affiliated persons of each other, is referred to herein as "shared funding."

8. The Fund (or a future fund) may sell its shares directly to the Plans. As described below, federal tax law permits investment companies such as the Insurance Funds to increase their net assets by selling shares to Plans.

9. Section 817(h) of the Code imposes certain diversification standards on the assets underlying Variable Contracts, such as those in each Insurance Fund. The Code provides that Variable Contracts will not be treated as annuity contracts or life insurance contracts, as the case may be, for any period (or any subsequent period) for which the underlying assets are not, in accordance with regulations issued by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued regulations (Treas. Reg. 1.817-5) that established diversification requirements for Variable Contracts, which require the separate accounts upon which these Contracts are based to be diversified as provided in the Treasury Regulations. In the case of separate accounts that invest in underlying investment companies, the Treasury Regulations provide a "look through" rule that permits the separate account to look to the underlying

investment company for purposes of meeting the diversification requirements, provided that the beneficial interests in the investment company are held only by the segregated asset accounts of one or more insurance companies. However, the Treasury Regulations also contain certain exceptions to this requirement, one of which permits shares in an investment company to be held by a Plan without adversely affecting the ability of shares in the same investment company to also be held by separate accounts funding Variable Contracts (Treas. Reg. Section 1.817-5(f)(3)(iii)). Another exception allows the investment adviser of the investment company (and certain companies related to the investment adviser) to hold shares of the investment company.

10. Plans may invest in shares of an investment company as the sole investment under the Plan, or as one of several investments. Plan participants may or may not be given an investment choice depending on the terms of the Plan itself. The trustees or other fiduciaries of a Plan may vote investment company shares held by the Plan in their own discretion or, if the applicable Plan so provides, vote such shares in accordance with instructions from participants in such Plans. Applicants have no control over whether trustees or other fiduciaries of Plans, rather than participants in the Plans, have the right to vote under any particular Plan. Each Plan must be administered in accordance with the terms of the Plan and as determined by its trustees or other fiduciaries. To the extent permitted under applicable law, NYLIM or an affiliated person of NYLIM may act as investment adviser or trustee to Plans that purchase shares of any Insurance Fund.

11. Applicants propose that any Insurance Fund also be permitted to sell shares to its investment adviser or an affiliate. The Treasury Regulations permit such sales as long as the return on shares held by the adviser or affiliate is computed in the same manner as shares held by VLI Accounts and VA Accounts, the adviser or affiliate does not intend to sell the shares to the public, and sales to an adviser or affiliate are only made in connection with the creation of the Insurance Fund.

12. Applicants propose that any Insurance Fund also be permitted to sell shares to the general account of a Participating Insurance Company. The Treasury Regulations also permit such sales as long as the return on shares held by general accounts are computed in the same manner as shares held by VLI Accounts and VA Accounts, and the

Participating Insurance Company does not intend to sell the shares to the public.

13. The promulgation of Rules 6e-2(b)(15) and 6e-3(T)(b)(15) preceded the issuance of the Treasury Regulations permitting the shares of Insurance Funds to be held by a Plan, an adviser for the Fund, or the general account of a Participating Insurance Company without adversely affecting the ability of the VLI Account to also hold shares.

14. The use of a common management investment company (or investment portfolio thereof) as an investment medium for VLI Accounts, VA Accounts, Plans, investment advisers and general accounts of Participating Insurance Companies is referred to herein as "extended mixed funding."

Applicants' Legal Analysis:

1. Section 9(a)(2) of the Act makes it unlawful for any company to serve as an investment adviser or principal underwriter of any investment company, including a unit investment trust, if an affiliated person of that company is subject to disqualification enumerated in Section 9(a)(1) or (2) of the Act. Sections 13(a), 15(a), and 15(b) of the Act have been deemed by the Commission to require "pass-through" voting with respect to an underlying investment company's shares.

2. Rule 6e-2(b)(15) under the Act provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the Act to VLI Accounts supporting scheduled premium VLI Contracts and to their life insurance company depositors. The exemptions granted by the Rule are available, however, only where an Insurance Fund offers its shares exclusively to VLI Accounts of the same Participating Insurance Company and/or of Participating Insurance Companies that are affiliated persons of the same Participating Insurance Company and then, only where scheduled premium VLI Contracts are issued through such VLI Accounts. Therefore, VLI Accounts, their depositors and their principal underwriters may not rely on the exemptions provided by Rule 6e-2(b)(15) if shares of the Insurance Fund are held by a VLI Account through which flexible premium VLI Contracts are issued, a VLI Account of an unaffiliated Participating Insurance Company, an unaffiliated investment adviser, any VA Account or a Plan. In other words, Rule 6e-2(b)(15) does not permit a scheduled premium VLI Account to invest in shares of a management investment company that serves as a vehicle for mixed funding, extended mixed funding or shared funding.

3. Accordingly, Applicants request an order of the Commission granting exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the Act, and Rule 6e-2(b)(15) thereunder, to the extent necessary to permit a scheduled premium VLI Account to hold shares of Insurance Funds when one or more of the following types of investors also hold shares of the Insurance Funds: (1) VA Accounts, (2) VLI Accounts supporting flexible premium VLI Contracts, (3) VA Accounts or VLI Accounts of Participating Insurance Companies that are not affiliated persons of the depositor of the scheduled premium VLI Account, (4) general accounts of Participating Insurance Companies, (5) investment advisers (or affiliated persons of an investment adviser) of an Insurance Fund, or (6) Plans.

4. Rule 6e-3(T)(b)(15) under the Act provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the Act to VLI Accounts supporting flexible premium variable life insurance contracts and their life insurance company depositors. The exemptions granted by the Rule are available, however, only where an Insurance Fund offers its shares exclusively to VLI Accounts (through which either scheduled premium or flexible premium VLI Contracts are issued) of the same Participating Insurance Company and/or of Participating Insurance Companies that are affiliated persons of the same Participating Insurance Company, VA Accounts of the same Participating Insurance Company or of affiliated Participating Insurance Companies, or the general account of the same Participating Insurance Company or of affiliated Participating Insurance Companies. Therefore, VLI Accounts, their depositors and their principal underwriters may not rely on the exemptions provided by Rule 6e-3(T)(b)(15) if shares of the Insurance Fund are held by a VLI Account of an unaffiliated Participating Insurance Company, a VA Account of an unaffiliated Participating Insurance Company, the general account of an unaffiliated Participating Insurance Company, an unaffiliated investment adviser, or a Plan. In other words, Rule 6e-3(T)(b)(15) permits VLI Accounts supporting flexible premium VLI Contracts to invest in shares of a management investment company that serves as a vehicle for mixed funding but does not permit such a VLI Account to invest in shares of a management investment company that serves as a vehicle for extended mixed funding or shared funding.

5. Accordingly, Applicants request an order of the Commission granting exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rule 6e-3(T)(b)(15) (and any comparable permanent rule) thereunder, to the extent necessary to permit a flexible premium VLI Account to hold shares of Insurance Funds when one or more of the following types of investors also hold shares of the Insurance Funds: (1) VA Accounts or VLI Accounts of Participating Insurance Companies that are not affiliated persons of the depositor of the flexible premium VLI Account, (2) general accounts of Participating Insurance Companies, (3) investment advisers (or affiliated persons of an investment adviser) of an Insurance Fund, or (4) Plans.

6. As explained below, Applicants maintain that there is no public policy reason why VLI Accounts and their Participating Insurance Company depositors (or principal underwriters) should not be able to rely on the exemptions provided by Rules 6e-2(b)(15) and 6e-3(T)(b)(15) just because shares of Insurance Funds held by the VLI Accounts are also held by a Fund's investment adviser (or affiliated person), the general account of the Participating Insurance Company (or another Participating Insurance Company), or a Plan ("Eligible 817(h) Purchasers"). Rather, Applicants assert that the proposed sale of Insurance Fund shares to Plans may allow for the development of larger pools of assets, resulting in the potential for greater investment and diversification opportunities and decreased expenses at higher asset levels. Similarly, Applicants believe that the proposed sale of Insurance Fund shares to investment advisers (or their affiliates) and to general accounts of Participating Insurance Companies may result in the creation of more Insurance Funds as investment options for certain VA Contracts and VLI Contracts than would otherwise be the case.

7. Applicants understand that the reason the Commission did not grant more extensive relief in the area of mixed and shared funding when it adopted Rule 6e-3(T) is because of the Commission's uncertainty in this area with respect to issues such as conflicts of interest. Applicants believe, however, that the Commission's concern in this area is not warranted here. For the reasons explained below, Applicants have concluded that investment by Eligible 817(h) Purchasers in the Insurance Funds should not increase the risk of material irreconcilable conflicts between owners of VLI Contracts and other types of investors or between

owners of VLI Contracts issued by unaffiliated Participating Insurance Companies.

8. Consistent with the Commission's authority under Section 6(c) of the Act to grant exemptive orders to a class or classes of persons and transactions, Applicants request exemptions for a class of parties consisting of VLI Accounts, their Participating Insurance Company depositors and their principal underwriters. There is ample precedent, in a variety of contexts, for the Commission to grant exemptions to a carefully defined class of persons or parties where the specific identities of all such persons or parties cannot be ascertained at the time an application for the exemptions is filed. Likewise, there is ample precedent for parties not seeking to rely on the exemptions to apply for such exemptions in order to further their reasonable business purposes.

9. In the context of mixed funding, extended mixed funding and shared funding, the Commission has granted numerous orders of exemption covering a class composed of registered VLI Accounts, their insurance company depositors and principal underwriters. The order sought is largely identical to these precedents with respect to the scope of the exemptions and the conditions proposed by the Applicants. Applicants believe that the same policies and considerations that led the Commission to grant such exemptions to other similarly situated applicants are present here.

10. Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act, or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The Applicants submit that the exemptions requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

11. Section 9(a)(3) of the Act provides, among other things, that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a)(1) or (2). Rules 6e-2(b)(15)(i) and (ii) and Rules

6e-3(T)(b)(15)(i) and (ii) under the Act provide exemptions from Section 9(a) under certain circumstances, subject to the limitations discussed above on mixed funding, extended mixed funding and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in management of the underlying investment company.

12. The relief provided by Rules 6e-2(b)(15)(i) and 6e-3(T)(b)(15)(i) permits a person that is disqualified under Sections 9(a)(1) or (2) of the Act to serve as an officer, director, or employee of the life insurance company, or any of its affiliates, as long as that person does not participate directly in the management or administration of the underlying investment company. The relief provided by Rules 6e-2(b)(15)(ii) and 6e-3(T)(b)(15)(ii) under the Act permits the life insurance company to serve as the underlying investment company's investment adviser or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) participates in the management or administration of the investment company.

13. In effect, the partial relief granted in Rules 6e-2(b)(15) and 6e-3(T)(b)(15) under the Act from the requirements of Section 9 of the Act limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Those rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act to apply the provisions of Section 9(a) to all individuals in a large insurance complex, most of whom will have no involvement in matters pertaining to investment companies in that organization. Applicants assert that it is also unnecessary to apply Section 9(a) of the Act to the many individuals in various unaffiliated insurance companies (or affiliated companies of Participating Insurance Companies) that may utilize the Insurance Funds as investment vehicles for VLI Accounts and VA Accounts. There is no regulatory purpose served in extending the monitoring requirements to embrace a full application of Section 9(a) eligibility restrictions because of mixed funding, extended mixed funding or shared funding. The Participating Insurance Companies and Plans are not expected to play any role in the management of the Insurance Funds. Those individuals who participate in the management of the Insurance Funds will remain the same regardless of

which VA Accounts, VLI Accounts, Plans or other Eligible 817(h) Purchasers invest in the Insurance Funds. Applying the monitoring requirements of Section 9(a) of the Act because of investment by VLI Accounts would be unjustified and would not serve any regulatory purpose. Furthermore, the increased monitoring costs could reduce the net rates of return realized by owners of VLI Contracts and Plan participants.

14. Rules 6e-2(b)(15)(iii) and 6e-3(T)(b)(15)(iii) under the Act provide exemptions from pass-through voting requirements with respect to several significant matters, assuming the limitations on mixed funding, extended mixed funding and shared funding are observed. Rules 6e-2(b)(15)(iii)(A) and 6e-3(T)(b)(15)(iii)(A) provide that the insurance company may disregard the voting instructions of its variable life insurance contract owners with respect to the investments of an underlying investment company, or any contract between such an investment company and its investment adviser, when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of Rules 6e-2 and 6e-3(T)).

15. Rules 6e-2(b)(15)(iii)(B) and 6e-3(T)(b)(15)(iii)(A)(2) provide that an insurance company may disregard the voting instructions of owners of its variable life insurance contracts if such owners initiate any change in an underlying investment company's investment policies, principal underwriter or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(5)(ii), (b)(7)(ii)(B) and (b)(7)(ii)(C) of Rules 6e-2 and 6e-3(T)).

16. In the case of a change in the investment policies of the underlying investment company, the insurance company, in order to disregard contract owner voting instructions, must make a good faith determination that such a change either would: (1) violate state law, or (2) result in investments that either (a) would not be consistent with the investment objectives of its separate account, or (b) would vary from the general quality and nature of investments and investment techniques used by other separate accounts of the company, or of an affiliated life insurance company with similar investment objectives.

17. Both Rule 6e-2 and Rule 6e-3(T) generally recognize that a variable life insurance contract is primarily a life insurance contract containing many important elements unique to life insurance contracts and subject to extensive state insurance regulation. In

adopting subparagraph (b)(15)(iii) of these Rules, the Commission implicitly recognized that state insurance regulators have authority, pursuant to state insurance laws or regulations, to disapprove or require changes in investment policies, investment advisers, or principal underwriters.

18. The sale of Insurance Fund shares to Plans will not have any impact on the provisions of Rules 6e-2 and 6e-3(T) relating to pass-through voting and an insurance company's ability to disregard voting instructions in certain circumstances. Shares sold to Plans will be held by such Plans, not insurance companies. The exercise of voting rights by Plans, whether by trustees, other fiduciaries, participants, beneficiaries, or investment managers engaged by the Plans, does not raise the type of issues respecting disregard of voting rights that are raised by VLI Accounts. With respect to Plans, which are not registered as investment companies under the Act, there is no requirement to pass through voting rights to Plan participants. Indeed, to the contrary, applicable law expressly reserves voting rights associated with Plan assets to certain specified persons. For example, for many Plans, under Section 403(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"), shares of a portfolio of an investment company sold to a Plan must be held by the trust(s) funding the Plan. Section 403(a) also provides that the trustee(s) of such trusts must have exclusive authority and discretion to manage and control the Plan, with two exceptions: (1) When the Plan expressly provides that the trustee(s) are subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) are subject to proper directions made in accordance with the terms of the Plan and not contrary to ERISA, and (2) when the authority to manage, acquire, or dispose of assets of the Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. For such Plans, unless one of the above two exceptions stated in Section 403(a) applies, Plan trustees have the exclusive authority and responsibility for voting investment company shares (or related proxies) held by their Plan.

19. If a named fiduciary to a Plan appoints an investment manager, the investment manager has the responsibility to vote the shares held, unless the right to vote such shares is reserved to the trustee(s) or another named fiduciary. The Plans may have their trustee(s) or other fiduciaries exercise voting rights attributable to investment securities held by the Plans in their discretion. Some Plans,

however, may provide for the trustee(s), an investment adviser (or advisers), or another named fiduciary to exercise voting rights in accordance with instructions from Plan participants.

20. Where a Plan does not provide participants with the right to give voting instructions, Applicants do not see any potential for material irreconcilable conflicts of interest between or among the Variable Contract owners and Plan participants with respect to voting of the respective Insurance Fund shares. Accordingly, unlike the circumstances surrounding VLI Accounts and VA Accounts, because Plans are not required to pass through voting rights to participants, the issue of resolution of material irreconcilable conflicts of interest should not arise with respect to voting Insurance Fund shares.

21. In addition, if a Plan were to hold a controlling interest in an Insurance Fund, Applicants do not believe that such control would disadvantage other investors in such Insurance Fund to any greater extent than is the case when any institutional shareholder holds a majority of the shares of any open-end management investment company. In this regard, Applicants submit that investment in an Insurance Fund by a Plan will not create any of the voting complications occasioned by VLI Account investments in the Fund. Unlike VLI Account investments, Plan voting rights cannot be frustrated by veto rights of Participating Insurance Companies or state insurance regulators.

22. Where a Plan provides participants with the right to instruct the trustee(s) as to how to vote Insurance Fund shares, Applicants see no reason why such participants generally or those in a particular Plan, either as a single group or in combination with participants in other Plans, would vote in a manner that would disadvantage VLI Contract owners. The purchase of shares by Plans that provide voting rights does not present any complications not otherwise occasioned by mixed or shared funding.

23. Similarly, an investment adviser to an Insurance Fund (or its affiliates) and the general accounts of Participating Insurance Companies are not subject to any pass-through voting requirements. Accordingly, unlike the circumstances surrounding VLI Account and VA Account investments in Insurance Fund shares, investment in such shares by Eligible 817(h) Purchasers should not raise issues of resolution of material irreconcilable conflicts of interest with respect to voting.

24. Applicants recognize that the Commission's primary concern with

respect to mixed funding, extended mixed funding and shared funding issues is the potential for irreconcilable conflicts between the interests of owners of variable life insurance contracts and those of other investors in an open end investment company serving as an investment vehicle for such contracts. The prohibitions on mixed and shared funding might reflect concern regarding possible different investment motivations among investors. When Rule 6e-2 was first adopted, variable annuity separate accounts could invest in mutual funds whose shares were also offered to the general public. Therefore, the Commission staff may have been concerned with the potentially different investment motivations of public shareholders and owners of variable life insurance contracts. There also may have been some concern with respect to the problems of permitting a state insurance regulatory authority to affect the operations of a publicly available mutual fund and the investment decisions of public shareholders.

25. For reasons unrelated to the Act, however, Revenue Ruling 81-225 (Sept. 25, 1981) effectively deprived variable annuity contracts funded by publicly available mutual funds of their tax-benefited status. The Tax Reform Act of 1984 codified the prohibition against the use of publicly available mutual funds as an investment vehicle for both variable annuity contracts and variable life insurance contracts. In particular, Section 817(h) of the Code, in effect, requires that the investments made by both variable annuity and variable life insurance separate accounts be "adequately diversified." If such a separate account is organized as part of a "two-tiered" arrangement where the account invests in shares of an underlying open-end investment company (*i.e.*, an underlying fund), the diversification test will be applied to the underlying fund (or to each of several underlying funds), rather than to the separate account itself, but only if "all of the beneficial interests" in the underlying fund "are held by one or more insurance companies (or affiliated companies) in their general account or in segregated asset accounts." Accordingly, a separate account that invests in a publicly available mutual fund will not be adequately diversified for these purposes. As a result, any underlying fund, including any Insurance Fund that sells shares to VA Accounts or VLI Accounts, would, in effect, be precluded from also selling its shares to the public. Consequently, the

Insurance Funds may not sell their shares to the public.

26. The rights of an insurance company or a state insurance regulator to disregard the voting instructions of owners of Variable Contracts is not inconsistent with either mixed funding or shared funding. The National Association of Insurance Commissioners Variable Life Insurance Model Regulation (the "NAIC Model Regulation") suggests that it is unlikely that insurance regulators would find an underlying fund's investment policy, investment adviser or principal underwriter objectionable for one type of Variable Contract but not another type. The NAIC Model Regulation has long permitted the use of a single underlying fund for different separate accounts. Moreover, the NAIC Model Regulation does not distinguish between scheduled premium and flexible premium variable life insurance contracts. The NAIC Model Regulation, therefore, reflects the NAIC's apparent confidence that such combined funding is appropriate and that state insurance regulators can adequately protect the interests of owners of all variable contracts.

27. Shared funding by unaffiliated insurance companies does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. A particular state insurance regulator could require action that is inconsistent with the requirements of other states in which the insurance company offers its contracts. However, the fact that different insurers may be domiciled in different states does not create a significantly different or enlarged problem.

28. Shared funding by unaffiliated insurers, in this respect, is no different than the use of the same investment company as the funding vehicle for affiliated insurers, which Rules 6e-2(b)(15) and 6e-3(T)(b)(15) permit. Affiliated insurers may be domiciled in different states and be subject to differing state law requirements. Affiliation does not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions set forth below are designed to safeguard against, and provide procedures for resolving, any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, then the affected Participating Insurance Company will be required to withdraw its separate account investments in the relevant Insurance Fund. This

requirement will be provided for in the Participation Agreement that will be entered into by Participating Insurance Companies with the relevant Insurance Fund.

29. Rules 6e-2(b)(15) and 6e-3(T)(b)(15) give the Participating Insurance Company the right to disregard the voting instructions of VLI Contract owners in certain circumstances. This right derives from the authority of state insurance regulators over VLI Accounts and VA Accounts. Under Rules 6e-2(b)(15) and 6e-3(T)(b)(15), a Participating Insurance Company may disregard VLI Contract owner voting instructions only with respect to certain specified items. Affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter or investment adviser initiated by such Contract owners. The potential for disagreement is limited by the requirements in Rules 6e-2 and 6e-3(T) that the Participating Insurance Company's disregard of voting instructions be reasonable and based on specific good faith determinations.

30. A particular Participating Insurance Company's disregard of voting instructions, nevertheless, could conflict with the voting instructions of a majority of VLI Contract owners. The Participating Insurance Company's action possibly could be different than the determination of all or some of the other Participating Insurance Companies (including affiliated insurers) that the voting instructions of VLI Contract owners should prevail, and either could preclude a majority vote approving the change or could represent a minority view. If the Participating Insurance Company's judgment represents a minority position or would preclude a majority vote, then the Participating Insurance Company may be required, at the relevant Insurance Fund's election, to withdraw its VLI Accounts' and VA Accounts' investments in the relevant Insurance Fund. No charge or penalty will be imposed as a result of such withdrawal. This requirement will be provided for in the Participation Agreement entered into by the Participating Insurance Companies with the relevant Insurance Fund.

31. There is no reason why the investment policies of an Insurance Fund would or should be materially different from what these policies would or should be if the Insurance Fund supported only VA Accounts or VLI Accounts, whether flexible premium or scheduled premium VLI

Contracts. Each type of insurance contract is designed as a long-term investment program.

32. Each Insurance Fund will be managed to attempt to achieve its specified investment objective, and not favor or disfavor any particular Participating Insurance Company or type of insurance contract. There is no reason to believe that different features of various types of Variable Contracts will lead to different investment policies for each or for different VLI Accounts and VA Accounts. The sale of Variable Contracts and ultimate success of all VA Accounts and VLI Accounts depends, at least in part, on satisfactory investment performance, which provides an incentive for each Participating Insurance Company to seek optimal investment performance.

33. Furthermore, no single investment strategy can be identified as appropriate to a particular Variable Contract. Each "pool" of VLI Contract and VA Contract owners is composed of individuals of diverse financial status, age, insurance needs and investment goals. An Insurance Fund supporting even one type of Variable Contract must accommodate these diverse factors in order to attract and retain purchasers. Permitting mixed and shared funding will provide economic support for the continuation of the Insurance Funds. Mixed and shared funding will broaden the base of potential Variable Contract owner investors, which may facilitate the establishment of additional Insurance Funds serving diverse goals.

34. Applicants do not believe that the sale of the shares to Plans will increase the potential for material irreconcilable conflicts of interest between or among different types of investors. In particular, Applicants see very little potential for such conflicts beyond those that would otherwise exist between owners of VLI Contracts and VA Contracts. Applicants submit that either there are no conflicts of interest or that there exists the ability by the affected parties to resolve such conflicts consistent with the best interests of VLI Contract owners, VA Contract owners and Plan participants.

35. Applicants considered whether there are any issues raised under the Code, Treasury Regulations, or Revenue Rulings thereunder, if Plans, VA Accounts, and VLI Accounts all invest in the same Insurance Fund. Section 817(h) of the Code is the culmination of a series of Revenue Rulings aimed at the control of investments by owners of Variable Contracts. Section 817(h) is the only Section of the Code that discusses insurance company separate accounts. Treasury Regulation 1.817-5(f)(3)(iii),

which establishes the diversification requirements for underlying funds, specifically permits, among other things, "qualified pension or retirement plans," and separate accounts to invest in the same underlying fund. For this reason, Applicants have concluded that neither the Code, nor the Treasury Regulations nor Revenue Rulings thereunder, present any inherent conflicts of interest if Plans, VLI Accounts, and VA Accounts all invest in the same Insurance Fund.

36. Applicants note that, while there are differences in the manner in which distributions from VLI Accounts and Plans are taxed, these differences have no impact on the Insurance Funds. When distributions are to be made, and a VLI Account or Plan is unable to net purchase payments to make distributions, the VLI Account or Plan will redeem shares of the relevant Insurance Fund at its net asset values in conformity with Rule 22c-1 under the Act (without the imposition of any sales charge) to provide proceeds to meet distribution needs. A Participating Insurance Company will then make distributions in accordance with the terms of its VLI Contract and a Plan will then make distributions in accordance with the terms of the Plan.

37. Applicants considered whether it is possible to provide an equitable means of giving voting rights to VLI Contract owners and Plans. In connection with any meeting of Insurance Fund shareholders, the Insurance Fund's transfer agent will inform each Participating Insurance Company and other Eligible 817(h) Purchaser of their share holdings and provide other information necessary for such shareholders to participate in the meeting (e.g., proxy materials). Each Participating Insurance Company then will solicit voting instructions from owners of VLI Contracts and VA Contracts as required by either Rules 6e-2 or 6e-3(T), or Section 12(d)(1)(E)(iii)(aa) of the Act, as applicable, and its Participation Agreement with the relevant Insurance Fund. Shares held by a Participating Insurance Company general account will be voted by the Participating Insurance Company in the same proportion of shares for which it receives voting instructions from its Variable Contract owners. Shares held by Plans will be voted in accordance with applicable law. The voting rights provided to Plans with respect to the shares would be no different from the voting rights that are provided to Plans with respect to shares of mutual funds sold to the general public. Furthermore, if a material irreconcilable conflict

arises because of a Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Plan may be required, at the election of the relevant Insurance Fund, to withdraw its investment in the Insurance Fund, and no charge or penalty will be imposed as a result of such withdrawal.

38. Applicants do not believe that the ability of an Insurance Fund to sell its shares to its investment adviser (or an affiliated person of the adviser), to Plans, or to the general account of a Participating Insurance Company gives rise to a senior security. "Senior Security" is defined in Section 18(g) of the Act to include "any stock of a class having priority over any other class as to distribution of assets or payment of dividends." As noted above, regardless of the rights and benefits of participants under Plans and owners of VLI Contracts, VLI Accounts, VA Accounts, Participating Insurance Companies, Plans, and investment advisers (or their affiliates), only have, or will only have, rights with respect to their respective shares of an Insurance Fund. These parties can only redeem such shares at net asset value. No shareholder of an Insurance Fund has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

39. Applicants do not believe that the veto power of state insurance commissioners over certain potential changes to Insurance Fund investment objectives approved by owners of VLI Contracts creates conflicts between the interests of such owners and the interests of Plan participants. Applicants note that a basic premise of corporate democracy and shareholder voting is that not all shareholders may agree with a particular proposal. Their interests and opinions may differ, but this does not mean that inherent conflicts of interest exist between or among such shareholders or that occasional conflicts of interest that do occur between or among them are likely to be irreconcilable.

40. Although Participating Insurance Companies may have to overcome regulatory impediments in redeeming shares of an Insurance Fund held by their VLI Accounts, the Plans and the participants in participant-directed Plans can make decisions quickly and redeem their shares in a Fund and reinvest in another investment company or other funding vehicle without impediments, or as is the case with most Plans, hold cash pending suitable investment. As a result, conflicts

between the interests of VLI Contract owners and the interests of Plans and Plan participants can usually be resolved quickly since the Plans can, on their own, redeem their Insurance Fund shares.

41. Finally, Applicants considered whether there is a potential for future conflicts of interest between Participating Insurance Companies and Plans created by future changes in the tax laws. Applicants do not see any greater potential for material irreconcilable conflicts arising between the interests of VLI Contract owners (or, for that matter, VA Contract owners) and Plan participants from future changes in the federal tax laws than that which already exists between VLI Contract owners and VA Contract owners.

42. Applicants recognize that the foregoing is not an all-inclusive list, but rather is representative of issues that they believe are relevant to this Application. Applicants believe that the discussion contained herein demonstrates that the sale of Insurance Fund shares to Plans trustees would not increase the risk of material irreconcilable conflicts between the interests of Plan participants and VLI Contract owners or other investors. Further, Applicants submit that the use of the Insurance Funds with respect to Plans is not substantially dissimilar from each Insurance Fund's anticipated use, in that Plans, like VLI Accounts, are generally long-term investors.

43. Applicants assert that permitting an Insurance Fund to sell its shares to its investment adviser (or the adviser's affiliates) or to the general account of a Participating Insurance Company will enhance management of each Insurance Fund without raising significant concerns regarding material irreconcilable conflicts among different types of investors.

44. A potential source of initial capital is an Insurance Fund's investment adviser or a Participating Insurance Company. Either of these parties may have an interest in making a capital investment and in assisting an Insurance Fund in its organization. However, provision of seed capital or the purchase of shares in connection with the management of an Insurance Fund by its investment adviser or by a Participating Insurance Company may be deemed to violate the exclusivity requirement of Rule 6e-2(b)(15) and/or Rule 6e-3(T)(b)(15).

45. Given the conditions of Treasury Regulation 1.817-5(f)(3) and the harmony of interest between an Insurance Fund, on the one hand, and its investment adviser (or affiliates) or a

Participating Insurance Company, on the other, Applicants assert that little incentive for overreaching exists. Furthermore, such investment should not implicate the concerns discussed above regarding the creation of material irreconcilable conflicts. Instead, permitting investments by an investment adviser (or its affiliates), or by general accounts of Participating Insurance Companies, will permit the orderly and efficient creation and operation of an Insurance Fund, and reduce the expense and uncertainty of using outside parties at the early stages of the Insurance Fund's operations.

46. Various factors have limited the number of insurance companies that offer Variable Contracts. These factors include the costs of organizing and operating a funding vehicle, certain insurers' lack of experience with respect to investment management, and the lack of name recognition by the public of certain insurance companies as investment experts. In particular, some smaller life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the Variable Contract business on their own. Use of an Insurance Fund as a common investment vehicle for VLI Accounts would reduce or eliminate these concerns. Mixed and shared funding should also provide several benefits to owners of VLI Contracts by eliminating a significant portion of the costs of establishing and administering separate underlying funds.

47. Participating Insurance Companies will benefit not only from the investment and administrative expertise of NYLIM and its affiliates, but also from the potential cost efficiencies and investment flexibility afforded by larger pools of funds. Mixed and shared funding also would permit a greater amount of assets available for investment by an Insurance Fund, thereby promoting economies of scale, by permitting increased safety through greater diversification, or by making the addition of new Insurance Funds more feasible. Therefore, making the Insurance Funds available for mixed and shared funding will encourage more insurance companies to offer VLI Accounts. This should result in increased competition with respect to both VLI Account design and pricing, which can in turn be expected to result in more product variety. Applicants also assert that sale of shares in an Insurance Fund to Plans, in addition to VLI Accounts and VA Accounts, will result in an increased amount of assets available for investment in an Insurance Fund. This may benefit VLI Account

owners by promoting economies of scale, permitting increased safety of investments through greater diversification, and making the addition of new Insurance Funds more feasible.

48. Applicants also submit that, regardless of the type of shareholder in an Insurance Fund, its investment adviser (and the adviser's affiliates) are or would be contractually and otherwise obligated to manage the Insurance Fund solely and exclusively in accordance with that Fund's investment objectives, policies and restrictions, as well as any guidelines established by the its board of directors or trustees (a "Board"). Thus, each Insurance Fund will be managed in the same manner as any other mutual fund.

49. Applicants see no significant legal impediment to permitting mixed funding, extended mixed funding and shared funding. VLI Accounts historically have been employed to accumulate shares of mutual funds that are not affiliated with the depositor or sponsor of the VLI Account. In particular, Applicants assert that sales of Insurance Fund shares to Eligible 817(h) Purchasers, as described above, will not have any adverse federal income tax consequences to other investors in such a Fund.

50. In addition, Applicants note that the Commission has issued numerous orders permitting mixed funding, extended mixed funding and shared funding. Therefore, granting the exemptions requested herein is in the public interest and, as discussed above, will not compromise the regulatory purposes of Sections 9(a), 13(a), 15(a), or 15(b) of the Act or Rules 6e-2 or 6e-3(T) thereunder.

Applicants' Conditions:

Applicants agree that the Commission order requested herein shall be subject to the following conditions which shall apply to the Fund and any future trusts:

1. A majority of the Board of each Insurance Fund will consist of persons who are not "interested persons" of the Insurance Fund, as defined by Section 2(a)(19) of the Act, and the rules thereunder, and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of death, disqualification or *bona fide* resignation of any trustee or trustees, then the operation of this condition will be suspended: (a) For a period of 90 days if the vacancy or vacancies may be filled by the Board, (b) for a period of 150 days if a vote of shareholders is required to fill the vacancy or vacancies, or (c) for such longer period as the Commission may prescribe by order upon application, or by future rule.

2. The Board of each Insurance Fund will monitor the Insurance Fund for the existence of any material irreconcilable conflict between and among the interests of the owners of all VLI Contracts and VA Contracts and participants of all Plans investing in the Insurance Fund, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority, (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax or securities regulatory authorities, (c) an administrative or judicial decision in any relevant proceeding, (d) the manner in which the investments of the Insurance Fund are being managed, (e) a difference in voting instructions given by VA Contract owners, VLI Contract owners, and Plans or Plan participants, (f) a decision by a Participating Insurance Company to disregard the voting instructions of contract owners; or (g) if applicable, a decision by a Plan to disregard the voting instructions of Plan participants.

3. Participating Insurance Companies (on their own behalf, as well as by virtue of any investment of general account assets in an Insurance Fund), an adviser and its affiliates, and any Plan that executes a Participation Agreement upon its becoming an owner of 10% or more of the net assets of an Insurance Fund (collectively, "Participants") will report any potential or existing conflicts to the Board of the Insurance Fund. Net assets of an Insurance Fund will be defined and calculated in accordance with the prospectus and as reflected in the financial statements of the Insurance Fund. Each Participant will be responsible for assisting the Board in carrying out the Board's responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever Variable Contract owner voting instructions are disregarded, and, if pass-through voting is applicable, an obligation by each Plan to inform the Board whenever it has determined to disregard Plan participant voting instructions. The responsibility to report such information and conflicts, and to assist the Board, will be a contractual obligation of all Participating Insurance

Companies under their Participation Agreement with an Insurance Fund, and these responsibilities will be carried out with a view only to the interests of the Variable Contract owners. The responsibility to report such information and conflicts, and to assist the Board, also will be contractual obligations of all Plans under their Participation Agreement with an Insurance Fund, and such agreements will provide that these responsibilities will be carried out with a view only to the interests of Plan participants.

4. If it is determined by a majority of the Board of an Insurance Fund, or a majority of the disinterested directors/trustees of such Board, that a material irreconcilable conflict exists, then the relevant Participant will, at its expense and to the extent reasonably practicable (as determined by a majority of the disinterested directors/trustees), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, up to and including: (a) Withdrawing the assets allocable to some or all of their VLI Accounts or VA Accounts from the Insurance Fund and reinvesting such assets in a different investment vehicle including another Insurance Fund, (b) in the case of a Participating Insurance Company, submitting the question as to whether such segregation should be implemented to a vote of all affected Variable Contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, VA Contract owners or VLI Contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Contract owners the option of making such a change, (c) withdrawing the assets allocable to some or all of the Plans from the affected Insurance Fund and reinvesting them in a different investment medium, and (d) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard Variable Contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, then the Participating Insurance Company may be required, at the election of the Insurance Fund, to withdraw such Participating Insurance Company's VA Account and VLI Account investments in the Insurance Fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Plan's decision to disregard Plan

participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Plan may be required, at the election of the Insurance Fund, to withdraw its investment in the Insurance Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action will be a contractual obligation of all Participants under their Participation Agreement with an Insurance Fund, and these responsibilities will be carried out with a view only to the interests of Variable Contract owners or, as applicable, Plan participants. For purposes of this Condition 4, a majority of the disinterested directors/trustees of the Board of each Insurance Fund will determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but, in no event, will the Insurance Fund or its investment adviser be required to establish a new funding vehicle for any Variable Contract or Plan. No Participating Insurance Company will be required by this Condition 4 to establish a new funding vehicle for any Variable Contract if any offer to do so has been declined by vote of a majority of the Contract owners materially and adversely affected by the material irreconcilable conflict. Further, no Plan will be required by this Condition 4 to establish a new funding vehicle for the Plan if: (a) A majority of the Plan participants materially and adversely affected by the irreconcilable material conflict vote to decline such offer, or (b) pursuant to documents governing the Plan, the Plan trustee makes such decision without a Plan participant vote.

5. The Board of each Insurance Fund's determination of the existence of a material irreconcilable conflict and its implications will be made known in writing promptly to all Participants.

6. Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners whose Contracts are issued through registered VLI Accounts or registered VA Accounts for as long as required by the Act as interpreted by the Commission. However, as to Variable Contracts issued through VA Accounts or VLI Accounts not registered as investment companies under the Act, pass-through voting privileges will be extended to owners of such Contracts to the extent granted by the Participating Insurance Company. Accordingly, such Participating Insurance Companies,

where applicable, will vote the shares of each Insurance Fund held in their VLI Accounts and VA Accounts in a manner consistent with voting instructions timely received from Variable Contract owners. Participating Insurance Companies will be responsible for assuring that each of their VLI and VA Accounts investing in an Insurance Fund calculates voting privileges in a manner consistent with all other Participating Insurance Companies investing in that Fund. The obligation to calculate voting privileges as provided in this Application shall be a contractual obligation of all Participating Insurance Companies under their Participation Agreement with the Insurance Fund. Each Participating Insurance Company will vote shares of each Insurance Fund held in its VLI or VA Accounts for which no timely voting instructions are received, as well as shares held by its general account or otherwise attributed to it, in the same proportion as those shares for which voting instructions are received. Each Plan will vote as required by applicable law, governing Plan documents and as provided in this application.

7. As long as the Act requires pass-through voting privileges to be provided to Variable Contract owners or the Commission interprets the Act to require the same, an Insurance Fund investment adviser (or its affiliates) or any general account will vote their shares of the Insurance Fund in the same proportion as all votes cast on behalf of all Variable Contract owners having voting rights; provided, however, that such an investment adviser (or affiliates) shall vote its shares in such other manner as may be required by the Commission or its staff.

8. Each Insurance Fund will comply with all provisions of the Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in its shares), and, in particular, the Insurance Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the Act not to require such meetings) or comply with Section 16(c) of the Act (although each Insurance Fund is not, or will not be, one of those trusts of the type described in Section 16(c) of the Act), as well as with Section 16(a) of the Act and, if and when applicable, Section 16(b) of the Act. Further, each Insurance Fund will act in accordance with the Commission's interpretations of the requirements of Section 16(a) with respect to periodic elections of directors/trustees and with whatever

rules the Commission may promulgate thereto.

9. An Insurance Fund will make its shares available to the VLI Accounts, VA Accounts, and Plans at or about the time it accepts any capital from its investment adviser (or affiliates) or from a general account of a Participating Insurance Company.

10. Each Insurance Fund has notified, or will notify, all Participants that disclosure regarding potential risks of mixed and shared funding may be appropriate in VLI Account and VA Account prospectuses or Plan documents. Each Insurance Fund will disclose, in its prospectus that: (a) Shares of the Fund may be offered to both VA Accounts and VLI Accounts and, if applicable, to Plans, (b) due to differences in tax treatment and other considerations, the interests of various Variable Contract owners participating in the Insurance Fund and the interests of Plan participants investing in the Insurance Fund, if applicable, may conflict, and (c) the Insurance Fund's Board will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflicts.

11. If and to the extent Rule 6e-2 and Rule 6e-3(T) under the Act are amended, or Rule 6e-3 under the Act is adopted, to provide exemptive relief from any provision of the Act, or the rules thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in this Application, then each Insurance Fund and/or Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e-2 or 6e-3(T), as amended, or Rule 6e-3, to the extent such rules are applicable.

12. Each Participant, at least annually, shall submit to the Board of each Insurance Fund such reports, materials or data as the Board reasonably may request so that the directors/trustees of the Board may fully carry out the obligations imposed upon the Board by the conditions contained in this Application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Board of an Insurance Fund. The obligations of the Participants to provide these reports, materials and data to the Board, when it so reasonably requests, shall be a contractual obligation of all Participants under their Participation Agreement with the Insurance Fund.

13. All reports of potential or existing conflicts received by the Board of each Insurance Fund, and all Board action

with regard to determining the existence of a conflict, notifying Participants of a conflict and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

14. Each Insurance Fund will not accept a purchase order from a Plan if such purchase would make the Plan an owner of 10 percent or more of the net assets of the Insurance Fund unless the Plan executes an agreement with the Insurance Fund governing participation in the Insurance Fund that includes the conditions set forth herein to the extent applicable. A Plan will execute an application containing an acknowledgement of this condition at the time of its initial purchase of shares.

15. Each Insurance Fund will make its shares available through an Account at or about the same time that the Insurance Fund receives any seed money from the general account of a Participating Insurance Company.

Conclusion:

For the reasons summarized above, applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-4064 Filed 2-25-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59425; File No. SR-CBOE-2009-009]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend Its Rules Prohibiting Members From Functioning as Market-Makers

February 19, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 18, 2009, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.8C, *Prohibition Against Members Functioning as Market-Makers*, to eliminate some of its restrictions. The Exchange also proposes to make a related cross-reference update to Rule 1.1(fff), which pertains to Voluntary Professionals. The text of the proposed rule change is available on the Exchange’s Web site (<http://www.cboe.org/Legal>), at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 6.8C in order to eliminate some of its restrictions. First, Rule 6.8C currently provides that a member, acting either as principal or agent, may neither enter nor permit the entry of orders into the Exchange’s electronic order routing system if (i) the orders are limit orders for the account or accounts of the same beneficial owner(s) and (ii) the limit orders are entered in such a manner that the beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such securities on a regular or continuous basis. The Exchange is proposing that these restrictions be amended to only be applicable to customer orders (*i.e.*, non-broker-dealer orders) that are not Voluntary Professional orders (as described below), since such customer orders have priority at any price over

the bids and offers of non-customers.³ The restrictions would no longer be applicable to instances where a member is acting as principal on its own behalf or is acting as agent on behalf of other broker-dealer orders or Voluntary Professional orders (which are a sub-category of customer orders that are treated in the same manner as broker-dealer orders).⁴

Rule 6.8C was adopted in 2001 to limit the ability of members that are not Designated Primary Market-Makers or market makers to compete on preferential terms within CBOE’s automated systems. Because customer orders are provided with certain benefits such as priority of bids and offers, the Exchange continues to believe that customer orders should be subject to the Rule’s restrictions. However, because broker-dealer orders are not subject to priority that is any better than market makers, the Exchange no longer believes it is necessary to impose the Rule’s restrictions on the entry of broker-dealer orders. Similarly, because Voluntary Professionals are not subject to priority that is any better than market makers, the Exchange does not believe it is necessary to impose the Rule’s restrictions on Voluntary Professionals.⁵

³ The Exchange notes that the Commission has previously found that it is consistent with the Act for an options exchange not to prohibit a user of its market from effectively operating as a market maker by holding itself out as willing to buy and sell options contracts on a regular or continuous basis without registering as a market maker. See Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (order approving, among other things, the rules governing the trading of options on the NASDAQ Options Market (“NOM”). The Exchange also notes that the Commission has published a rule proposal for the NYSE Alternext U.S. LLC (“Amex”) that would only prohibit *de facto* market making through the use of customer orders, since customer orders have priority at any price over the bids and offers of non-customers but that would not prohibit such activity for other non-market maker broker-dealers. See Securities Exchange Act Release No. 59142 (December 22, 2008), 73 FR 80494 (December 31, 2008) (SR–NYSEALTR–2008–14) (notice of proposal to, among other things, adopt rules governing the trading of options on a new Amex trading platform).

⁴ A Voluntary Professional is a new category of non-member market participant on the Exchange. The term “Voluntary Professional,” means any person or entity that is not a broker or dealer in securities that elects, in writing, to be treated in the same manner as a broker or dealer in securities for purposes of certain order handling, order execution, and cancel fee calculation purposes. See Rule 1.1(fff) and Securities Exchange Act Release No. 58327 (August 7, 2008), 73 FR 47988 (August 15, 2008) (SR–CBOE–2008–09). As part of this rule change, the Exchange is proposing to amend Rule 1.1(fff) to provide that a Voluntary Professional will be treated in the same manner as a broker or dealer in securities for purposes of Rule 6.8C.

⁵ The Exchange notes that this rule change would only eliminate the restrictions of Rule 6.8C in the

Second, in those instances where the restrictions are applicable, Rule 6.8C currently provides that, in determining whether a beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things, the simultaneous or near simultaneous entry of limit orders to buy and sell the same security, the entry of multiple limit orders at different prices in the same security, and the multiple acquisition and liquidation of positions in the security during the same day. The Exchange is proposing to remove this latter condition pertaining to the multiple acquisition and liquidation of positions from its list of factors used for determining whether a beneficial owner is operating as a market maker. In light of the proliferation of day trading activity and the fact that such a prohibition does not exist on at least one other market,⁶ the Exchange no longer believes this activity should be considered a factor in determining whether a beneficial owner is effectively acting as a market maker.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section

manner proposed. Members would continue to remain subject to the requirements of Rule 4.18 (which requires members to establish, maintain and enforce written policies and procedures reasonably designed, taking into consideration the nature of such member’s business, to prevent the misuse of material, nonpublic information by such member or persons associated with such member); Rule 6.9(e), (which considers it conduct inconsistent with just and equitable principles of trade and a violation of Rule 4.1 for any member or person associated with a member, who has knowledge of all material terms and conditions of an original order and a solicited order, including a facilitation order, that matches the original order’s limit, the execution of which are imminent, to enter, based on such knowledge, an order to buy or sell an option of the same class as an option that is the subject of the original order, or an order to buy or sell the security underlying such class, or an order to buy or sell any related instrument until either (i) all the terms and conditions of the original order and any changes in the terms and conditions of the original order of which that member or associated person has knowledge are disclosed to the trading crowd or (ii) the solicited trade can no longer reasonably be considered imminent in view of the passage of time since the solicitation); Rules 6.45A.01 and 6.45B.01 (which provide that order entry firms may not execute as principal against orders they represent as agent unless: (i) agency orders are first exposed on the Hybrid System for at least one second, (ii) the order entry firm has been bidding or offer for at least one second prior to receiving an agency order that is executable against such bid or offer, or (iii) the order entry firm proceeds in accordance with the crossing rules contained in Rule 6.74); and Rules 6.45A.02 and 6.45B.02 (which provide that order entry firms must expose orders they represent as agent for at least one second before such orders may be executed electronically via the electronic execution mechanism of the Hybrid System, in whole or in part, against orders solicited from members and non-member broker-dealers to transact with such orders).

⁶ See note 3, *supra*.

6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed changes to the rule should continue to contribute to the Exchange's ability to maintain a fair and orderly market in a manner that will limit unfair advantage and encourage competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File

Number SR-CBOE-2009-009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2009-009. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. 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-CBOE-2009-009 and should be submitted on or before March 19, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-4120 Filed 2-25-09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59424; File No. SR-NASDAQ-2009-009]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify Nasdaq's Definition of "Controlled Company"

February 19, 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 February 10, 2009, The NASDAQ Stock Market LLC ("Nasdaq") 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 Nasdaq. Nasdaq has designated the proposed rule change as effecting a change described under Rule 19b-4(f)(6) under the Act,³ 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

Nasdaq proposes to clarify its definition of a "controlled company." Nasdaq will implement the proposed rule upon approval [sic]. The text of the proposed rule change is below. Proposed new language is in *italics*.⁴

* * * * *

4350. Qualitative Listing Requirements for Nasdaq Issuers Except for Limited Partnerships.

(a)-(b) No change.

(c) Independent Directors

(1)-(4) No change.

(5) A Controlled Company is exempt from the requirements of this Rule 4350(c), except for the requirements of subsection (c)(2) which pertain to executive sessions of independent directors. A Controlled Company is a company of which more than 50% of the voting power *for the election of directors* is held by an individual, a group or another company. A Controlled Company relying upon this exemption must disclose in its annual meeting proxy statement (or, if the issuer does

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at <http://nasdaqomx.cchwallstreet.com>.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 17 CFR 200.30-3(a)(12).

not file a proxy, in its Form 10-K or 20-F) that it is a Controlled Company and the basis for that determination.

(d)-(n) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule filing is to clarify the definition of a "controlled company."⁵ Nasdaq currently allows a "controlled company" to exempt itself from the requirements to have a majority of independent directors on its board and to have independent compensation and nomination committees.⁶ Under Nasdaq's rules, a "controlled company" is a company of which more than 50% of the voting power is held by an individual, group, or another company, and, in order for a group to exist, the shareholders comprising the group must have publicly filed a notice that they are acting as a group (e.g., a Schedule 13D).⁷

Under Nasdaq's current practice, in order for a company to be deemed a controlled company, more than 50% of the voting power for the election of directors must be held by an individual, group or another company. Nasdaq proposes to amend its definition of "controlled company" to provide transparency to this interpretation and to provide clarity to companies and investors about the availability of the "controlled company" exception. In applying the rule in this manner, Nasdaq intends to limit the controlled company exception to companies with shareholders who truly control that company and its board composition. For example, the controlled company exception would not apply where a

shareholder agreement exists relating only to the disposition of assets.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁸ in general and with Section 6(b)(5) of the Act,⁹ in particular. Section 6(b)(5) requires, among other things, that Nasdaq's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed change is consistent with these requirements in that it will prevent issuers from relying on the exception when they are not truly a "controlled company." The proposed rule change also will provide a standard that is clear, straightforward and uniform for issuers to understand and apply.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule 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, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission 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 business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the

Normally, a proposed rule change filed under 19b-4(f)(6) may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)¹² permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Nasdaq requests that the Commission waive the 30-day waiting period.¹³

Nasdaq believes that the proposed rule change does not significantly affect the protection of investors or the public interest because it provides transparency to Nasdaq's existing interpretation of this Rule. Nasdaq requests the waiver so that companies that file their annual reports and proxy statements with the Commission during that period will have the benefit of this clarification. In that regard, Nasdaq notes that, depending on their filing deadline under the Commission's rules, companies with fiscal year ends between September 30, 2008 and December 31, 2008, either just filed, or are about to file, their annual reports with the Commission and generally file their proxy statements shortly thereafter.

The Commission believes that waiver of the operative date delay is appropriate, particularly because companies whose fiscal year recently ended just filed, or are about to file, their annual reports with the Commission, and proxy statements shortly thereafter, would have clarity regarding the controlled company provision. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and designates the proposed rule change to be operative upon filing.¹⁴

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

Commission. The Commission notes that Nasdaq has satisfied the five-day pre-filing notice requirement.

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ Nasdaq previously proposed this change in SR-NASDAQ-2008-005, which was withdrawn as of the date of this current filing.

⁶ Nasdaq Rule 4350(c)(5).

⁷ Nasdaq Rule 4350(c)(5) and Nasdaq IM-4350-7.

including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2009-009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2009-009. 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 Nasdaq. 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-2009-009 and should be submitted on or before March 19, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-4062 Filed 2-25-09; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the next meeting of the National Small Business Development Center (SBDC) Advisory Board.

DATES: The meeting will be held on Tuesday, March 17, 2009 at 1 p.m. EST.

ADDRESSES: This meeting will be held via conference call.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), SBA announces the meeting of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

The purpose of this meeting is to discuss following issues pertaining to the SBDC Advisory Board:

- Board Wrap-Up of ASBDC Spring Meeting.
- SBA Update.
- Member Roundtable.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however, advance notice of attendance is requested. Anyone wishing to be a listening participant must contact Alanna Falcone by Friday, March 13, 2009, by fax or e-mail in order to be placed on the agenda. Alanna Falcone, Program Analyst, 409 Third Street, SW., Washington, DC 20416, Phone, 202-619-1612, Fax 202-481-0134, e-mail, alanna.falcone@sba.gov.

Additionally, if you need accommodations because of a disability or require additional information, please contact Alanna Falcone at the information above.

Bridget E. Bean,

Acting Committee Management Officer.

[FR Doc. E9-4113 Filed 2-25-09; 8:45 am]

BILLING CODE 8025-01-P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2009-0002]

Agreement on Social Security Between the United States and the Republic of Poland; Entry Into Force

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: We are giving notice that an agreement coordinating the United States (U.S.) and the Polish social security programs will enter into force on March 1, 2009. The agreement with the Republic of Poland, which was signed on April 2, 2008, is similar to U.S. social security agreements already in force with 23 other countries—Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Korea (South), Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom. Agreements of this type are authorized by section 233 of the Social Security Act. 42 U.S.C. 433.

Like the other agreements, the U.S.-Polish agreement eliminates dual social security coverage. This situation exists when a worker from one country works in the other country and is covered under the social security systems of both countries for the same work. When dual coverage occurs without such agreements in force, the worker, the worker's employer, or both may be required to pay social security contributions to the two countries simultaneously. Under the U.S.-Polish agreement, a worker who is sent by an employer in one country to work in the other country for 5 or fewer years remains covered only by the sending country. The agreement includes additional rules that eliminate dual U.S. and Polish coverage in other work situations.

The agreement also helps eliminate situations where workers suffer a loss of benefit rights because they have divided their careers between the two countries. Under the agreement, workers may qualify for partial U.S. benefits or partial Polish benefits based on combined (totalized) work credits from both countries.

Persons who would like a copy of the agreement or want more information about its provisions may write to the Social Security Administration, Office of International Programs, Post Office Box 17741, Baltimore, MD 21235-7741 or visit the Social Security Web site at <http://www.socialsecurity.gov/international>.

Dated: February 20, 2009.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. E9-4104 Filed 2-25-09; 8:45 am]

BILLING CODE 4191-02-P

¹⁵ 17 CFR 200.30-3(a)(12).

DEPARTMENT OF STATE**[Public Notice: 6533]****Bureau of Diplomatic Security, Office of Foreign Missions**

Title: 60-Day Notice of Proposed Information Collection: Forms DS-2003 & DS-2004, Notification of Appointment of Foreign Diplomatic Officer, Career Consular Officer, and Foreign Government Employee; Form DS-2005, Notification of Appointment of Honorary Consular Officer; Form DS-2006, Notification of Change—Identification Card Request; Form DS-2007, Notification of Dependents of Diplomatic, Consular and Foreign Government Employees (Continuation Sheet); Form DS-2008, Notice of Termination of Diplomatic, Consular, or Foreign Government Employment; Forms DS-98 and DS-99, Application for Diplomatic Exemption From Taxes On; Forms DS-100, DS-101, DS-102, & DS-104, Diplomatic Motor Vehicle Applications for: Vehicle Registration, Title, & Replacement Plates; Department of State Form DS-1504; Request for Customs Clearance of Merchandise; Form DS-1972, U.S. Department of State Driver License and Tax Exemption Card Application; Foreign Diplomatic Services Applications, OMB Collection Number 1405-0105.

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

• *Title of Information Collection:* Notification of Appointment of Foreign Diplomatic Officer, Career Consular Officer, and Foreign Government Employee.

• *OMB Control Number:* 1405-0105.
• *Type of Request:* Revision of currently approved collection.
• *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM).

• *Form Numbers:* DS-2003, DS-2004, & e-2003.

• *Respondents:* Foreign government representatives assigned to the United States.

• *Estimated Number of Respondents:* 350 missions.

• *Estimated Number of Responses:* 11,154 responses (DS-2003: 800), (DS-2004: 1654), & (e-2003: 8,700).

• *Average Hours per Response:* 25 minutes.

• *Total Estimated Burden:* 4,640 hours divided among the missions.

• *Frequency:* On occasion.

• *Obligation to Respond:* Mandatory.

• *Title of Information Collection:*

Notification of Appointment of Honorary Consular Officer.

• *OMB Control Number:* 1405-0105.

• *Type of Request:* Revision of currently approved collection.

• *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM).

• *Form Number:* DS-2005.

• *Respondents:* Foreign government representatives assigned to the United States.

• *Estimated Number of Respondents:* 155 missions.

• *Estimated Number of Responses:* 200 forms per year.

• *Average Hours per Response:* 20 minutes.

• *Total Estimated Burden:* 67 hours divided among the missions.

• *Frequency:* On occasion.

• *Obligation to Respond:* Mandatory.

• *Title of Information Collection:*

Notification of Change—Identification Card Request.

• *OMB Control Number:* 1405-0105.

• *Type of Request:* Revision of currently approved collection.

• *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM).

• *Form Numbers:* DS-2006, & e-2006.

• *Respondents:* Foreign government representatives assigned to the United States.

• *Estimated Number of Respondents:* 350 missions.

• *Estimated Number of Responses:* 8,116 responses (DS-2006: 7,124), (e-2006: 992).

• *Average Hours per Response:* 9 minutes.

• *Total Estimated Burden:* 1,217 hours divided among the missions.

• *Frequency:* On occasion.

• *Obligation to Respond:* Mandatory.

• *Title of Information Collection:*

Notification of Dependents of Diplomatic, Consular, and Foreign Government Employees (Continuation Sheet).

• *OMB Control Number:* 1405-0105.

• *Type of Request:* Revision of currently approved collection.

• *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM).

• *Form Number:* DS-2007.

• *Respondents:* Foreign government representatives assigned to the United States.

• *Estimated Number of Respondents:* 350 missions.

• *Estimated Number of Responses:* 3,000 forms per year.

• *Average Hours per Response:* 10 minutes.

• *Total Estimated Burden:* 498 hours divided among the missions.

• *Frequency:* On occasion.

• *Obligation to Respond:* Mandatory.

• *Title of Information Collection:*

Notice of Termination of Diplomatic, Consular, or Foreign Government Employment.

• *OMB Control Number:* 1405-0105.

• *Type of Request:* Revision of currently approved collection.

• *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM).

• *Form Numbers:* DS-2008, & e-2008.

• *Respondents:* Foreign government representatives assigned to the United States.

• *Estimated Number of Respondents:* 350 missions.

• *Estimated Number of Responses:* 6,685 eGov responses.

• *Average Hours per Response:* 10 minutes.

• *Total Estimated Burden:* 1,110 hours divided among the missions.

• *Frequency:* On occasion.

• *Obligation to Respond:* Mandatory.

• *Title of Information Collection:*

Application for Diplomatic Exemption From Taxes.

• *OMB Control Number:* 1405-0105.

• *Type of Request:* Revision of an approved collection.

• *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM).

• *Form Numbers:* DS-98, DS-99, e-98, & e-99.

• *Respondents:* Eligible foreign diplomatic or consular missions, certain foreign government organizations, and designated international organizations.

• *Estimated Number of Respondents:* 350.

• *Estimated Number of Responses:* 5,089 eGov submissions (e-98: 2,413), (e-99: 2,676).

• *Average Hours per Response:* 15 minutes.

• *Total Estimated Burden:* 1,272 hours.

• *Frequency:* On occasion.

• *Obligation to Respond:* Required to obtain or retain a benefit.

• *Title of Information Collection:*

Diplomatic Motor Vehicle Applications for: Vehicle Registration, Title, & Replacement Plates.

• *OMB Control Number:* 1405-0105.

• *Type of Request:* Revision of a currently approved collection.

- *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM).

- *Form Numbers:* DS-100, DS-101, DS-102, & DS-104.

- *Respondents:* Foreign government representatives assigned to the United States.

- *Estimated Number of Respondents:* 350.

- *Estimated Number of Responses:* 14,865.

- *Average Hours per Response:* 30 minutes.

- *Total Estimated Burden:* 7,433.

- *Frequency:* On occasion.

- *Obligation to Respond:* Required to obtain or retain a benefit.

- *Title of Information Collection:* Request for Customs Clearance of Merchandise.

- *OMB Control Number:* 1405-0105.

- *Type of Request:* Revision of a currently approved collection.

- *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM).

- *Form Number:* DS-1504.

- *Respondents:* Foreign government representatives assigned to the United States.

- *Estimated Number of Respondents:* 350.

- *Estimated Number of Responses:* 7,938.

- *Average Hours per Response:* 30 minutes.

- *Total Estimated Burden:* 3,969 hours.

- *Frequency:* On occasion.

- *Obligation to Respond:* Required to obtain or retain a benefit.

- *Title of Information Collection:* U.S. Department of State Driver License and Tax Exemption Card Application.

- *OMB Control Number:* 1405-0105.

- *Type of Request:* Revision of a currently approved collection.

- *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM).

- *Form Numbers:* DS-1972, DS-1972D, DS-1972T.

- *Respondents:* Foreign government representatives assigned to the United States.

- *Estimated Number of Respondents:* 350 foreign missions.

- *Estimated Number of Responses:* 12,725 responses (DS-1972: 1,402), (DS-1972D: 6,282), (DS-1972T: 5,041).

- *Average Hours per Response:* DS-1972 (30 minutes), DS-1972D (20 minutes), DS-1972T (15 minutes).

- *Total Estimated Burden:* 4,053 hours.

- *Frequency:* On occasion.

- *Obligation to Respond:* Required to obtain or retain benefits.

DATES: The Department will accept comments from the public up to 60 days from date of publication in the **Federal Register**.

ADDRESSES: You may submit comments by either of the following methods:

- *E-mail:* OFMInfo@state.gov.

- *Mail:* U.S. Department of State,

Diplomatic Security, Office of Foreign Missions, 2201 C Street, NW., Room 2238, Washington, DC 20520.

You must include the DS form number, information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Attn: Jacqueline Robinson, Diplomatic Security, Office of Foreign Missions, 2201 C Street, NW., Room 2238, Washington, DC 20520, who may be reached on (202) 647-3416 or OFMInfo@state.gov.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.

- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection: The Foreign Diplomatic Service Applications (FDSA) associated with OMB Collection number 1405-0105 (DS-2003, DS-2004, DS-2005, DS-2006, DS-2007, and DS-2008) are the means by which the Department of State obtains the information necessary to accept the appointments and terminations of foreign government employees and diplomatic, career and honorary consular officers serving in the United States; their dependents and personal servants accompanying them on tours-of-duty in the United States; to issue documents or update information previously submitted; to extend or terminate privileges and immunities accorded under the Vienna Convention on Diplomatic Relations, 1961 and the Vienna Convention on Consular Relations, 1963. Also, FDSA DS-1504, DS-98, DS-99, and DS-1972, also associated with OMB number 1405-

0105, are the means by which the Department provide customs duty-free entry privileges, exemption from taxes on the use of public utilities and the purchase of gasoline and other motor fuels, the issuance of a driver license and/or a sales tax exemption card for foreign mission personnel and their dependents. In addition, DS-100, DS-101, DS-102, & DS-104 are the means by which the Department provides foreign missions and their members with registration, titling, and issuance of license plates for motor vehicles they own/operate. These are "benefits" designated under the Foreign Missions Act, 22 U.S.C. 4301 *et seq.* (FMA), and must be obtained through the U.S. Department of State. The applications provide the Department with the information necessary to administer the benefits effectively and efficiently and to monitor compliance with local laws, including the ability to identify and take action against motor vehicle operators who receive traffic citations. It also facilitates the Department's ability to monitor and enforce the compliance with Federal laws regarding liability insurance for all foreign mission-operated motor vehicles. FMA, 22 U.S.C. 4303a; 22 CFR part 151.

Methodology: These applications/information collections are submitted by all foreign missions to the Office of Foreign Missions via the following methods: Mail, personal delivery, and/or electronically.

Dated: January 30, 2009.

Robert D. Barton,

Managing Director, Bureau of Diplomatic Security, Office of Foreign Missions, U.S. Department of State.

[FR Doc. E9-4139 Filed 2-25-09; 8:45 am]

BILLING CODE 4710-43-P

DEPARTMENT OF STATE

[Delegation of Authority No. 245-1]

Delegation From the Secretary to the Deputy Secretary and the Deputy Secretary for Management and Resources of Authorities of the Secretary of State

By virtue of the authority vested in me as Secretary of State by the laws of the United States, including 22 U.S.C. 2651a, I hereby delegate to the Deputy Secretary and the Deputy Secretary for Management and Resources, to the extent authorized by law, all authorities and functions vested in the Secretary of State or the head of agency by any act, order, determination, delegation of authority, regulation, or executive order, now or hereafter issued.

This Delegation includes all authorities and functions that have been or may be delegated or redelegated to other Department officials but does not repeal delegations to such officials.

Notwithstanding this delegation of authority, the Secretary of State may exercise any function or authority delegated by this delegation.

The Deputy Secretary or Deputy Secretary for Management and Resources may, to the extent consistent with law, (1) redelegate such functions and authorities and authorize their successive redelegation, and (2) promulgate such rules and regulations as may be necessary to carry out such functions.

This Delegation of Authority supersedes Delegation of Authority 245, dated April 23, 2001.

This memorandum shall be published in the **Federal Register**.

Dated: February 13, 2009.

Hillary Rodham Clinton,

Secretary of State, Department of State.

[FR Doc. E9-4142 Filed 2-25-09; 8:45 am]

BILLING CODE 4710-10-P

DEPARTMENT OF STATE

[Delegation of Authority 284-1]

Delegation of Authority to the Under Secretary for Political Affairs

By virtue of the authority vested in me as Secretary of State by the laws of the United States, including 22 U.S.C. 2651a, I hereby delegate to the Under Secretary for Political Affairs, to the extent authorized by law, all authorities and functions vested in the Secretary of State or the head of agency by any act, order, determination, delegation of authority, regulation, or executive order, now or hereafter issued. This delegation includes all authorities and functions that have been or may be delegated or redelegated to other Department officials but does not repeal delegations to such officials.

This delegation shall apply only when the Secretary, the Deputy Secretary, and the Deputy Secretary for Management and Resources are absent or otherwise unavailable or when the Secretary or either Deputy Secretary requests that the Under Secretary exercise such authorities and functions.

Notwithstanding this delegation of authority, the Secretary of State, the Deputy Secretary of State and the Deputy Secretary for Management and Resources may exercise any function or authority delegated by this delegation.

This Delegation of Authority supersedes Delegation of Authority 284, dated August 26, 2005.

This memorandum shall be published in the **Federal Register**.

Dated: February 13, 2009.

Hillary Rodham Clinton,

Secretary of State, Department of State.

[FR Doc. E9-4143 Filed 2-25-09; 8:45 am]

BILLING CODE 4710-10-P

DEPARTMENT OF STATE

[Delegation of Authority No. 280-1]

Delegation by the Secretary of State to the Under Secretary for Political Affairs of Authorities Regarding Congressional Reporting Functions

By virtue of the authority vested in me as Secretary of State by the laws of the United States, including 22 U.S.C. 2651a, I hereby assign to the Under Secretary of State for Political Affairs, to the extent authorized by law, the function of approving submission of reports to the Congress.

This delegation covers the decision to submit to the Congress both one-time reports and recurring reports, including but not limited to those recurring reports identified in Section 1 of Executive Order 13313 (Delegation of Certain Congressional Reporting Functions) of July 31, 2003. However, this delegation shall not be construed to authorize the Under Secretary to make waivers, certifications, determinations, findings, or other such statutorily required substantive actions that may be called for in connection with the submission of a report. The Under Secretary shall be responsible for referring to the Secretary, the Deputy Secretary, or the Deputy Secretary for Management and Resources any matter on which action would appropriately be taken by such official.

Any authority covered by this delegation may also be exercised by the Deputy Secretary and the Deputy Secretary for Management and Resources, to the extent authorized by law, or by the Secretary of State.

This Delegation of Authority supersedes Delegation of Authority 280, dated May 2, 2005. This delegation does not repeal delegations to other Department officials.

This delegation of authority shall be published in the **Federal Register**.

Dated: February 13, 2009.

Hillary Rodham Clinton,

Secretary of State, Department of State.

[FR Doc. E9-4145 Filed 2-25-09; 8:45 am]

BILLING CODE 4710-10-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eighth Meeting, RTCA Special Committee 216: Aeronautical System Security

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 216 meeting Aeronautical Systems Security.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 216: Aeronautical Systems Security.

DATES: The meeting will be held on March 18-20, 2009. March 18-19, from 9 a.m. to 5 p.m., and March 20, from 9 a.m. to 12 p.m.

ADDRESSES: RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036-5133; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 216 meeting. The agenda will include:

- Opening Session (Welcome, Introductions and Administrative Remarks, Agenda Overview).
- Approval of Summary of the Seventh meeting held on 14-16 January, RTCA Paper No. 039-09/SC216-015.
- Report on PMC Action on TOR.
- Subgroup and Action Item Reports.
- EUROCAE WG-72 Report.
- Other Industry Activities Related to Security—Reports and Presentations.
- Subgroup Breakout Sessions.
- Subgroups Report on Breakouts.
- Establish Dates, Location and Agenda for Next Meeting.
- Closing Session (Any Other Business, Assignment/Review of Future Work, Establish Agenda, Date and Place of Next Meeting, Closing Remarks, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 19, 2009.

Bob Bostiga,

Program Manager, RTCA Advisory Committee.

[FR Doc. E9-4075 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In January 2009, there were three applications approved. This notice also includes information on one application, approved in December 2008, inadvertently left off the December 2008 notice. Additionally, 16 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Gallatin Airport Authority, Belgrade, Montana.

Application Number: 09-04-C-00-BZN.

Application Type: Impose and use a PFC.

PFC Level: \$4.50.

TOTAL PFC Revenue Approved in This Decision: \$2,200,000.

Earliest Charge Effective Date: February 1, 2010.

Estimated Charge Expiration Date: February 1, 2012.

Class of Air Carriers not Required to Collect PFC'S: Air taxi/commercial operators filing FAA Form 1800-31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Gallatin Field.

Brief Description of Projects Approved for Collection and Use:

Terminal expansion, preliminary design.

Purchase express ramp loading bridge.

Decision Date: December 30, 2008.

FOR FURTHER INFORMATION CONTACT:

Dave Stelling, Helena Airports District Office, (406) 449-5257.

Public Agency: Indian Wells Valley Airport District, Inyokern, California.

Application Number: 09-06-C-00-IYK.

Application Type: Impose And Use A PFC.

PFC Level: \$4.50.

Total PFC Revenue Approved in This Decision: \$502,105.

Earliest Charge Effective Date: March 1, 2009.

Estimated Charge Expiration Date: March 1, 2019.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

PFC application costs.

Terminal building improvements.

Airfield electrical improvements.

Power sweeper truck.

Brief Description of Projects Approved for Collection:

Runway 2/20, taxiway, apron, and access road rehabilitation.

Runway 2/20 reconstruction.

Taxiway A1 construction.

Runway 15/33 reconstruction.

Decision Date: January 16, 2009.

FOR FURTHER INFORMATION CONTACT:

Darlene Williams, Los Angeles Airports District Office, (310) 725-3625.

Public Agency: City Of Chicago, Illinois.

Applications Number: 07-12-C-00-Mdw.

Application Type: Impose And Use A Pfc.

PFC Level: \$4.50.

Total PFC Revenue Approved In This Decision: \$501,933,168.

Earliest Charge Effective Date: September 1, 2038.

Estimated Charge Expiration Date: November 1, 2053.

Class of Air Carriers not Required to Collect PFC's: Air Taxi.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Chicago Midway International Airport.

Brief Description of Partially Projects Approved for Collection and Use at a \$4.50 PFC Level: Residential soundproofing (2005-2011).

Determination: The public agency did not provide sufficient documentation to justify the level of financing and interest costs requested. Therefore, the FAA reduced the requested financing costs. North security hall expansion.

Determination: The public agency did not provide sufficient documentation to justify the level of financing and interest costs requested. Therefore, the FAA reduced the requested financing costs. Cyclical airfield rehabilitation.

Determination: The public agency requested that this project be solely funded with PFC revenue. However, after the application had been submitted, the public agency received two Airport Improvement Program (AIP) grants providing partially funding for two project components. Therefore, the FAA reduced the approved PFC amount to account for the two AIP grants. In addition, the public agency requested, by letter dated December 19, 2008, that three proposed components be withdrawn from the project. Finally, the public agency did not provide sufficient documentation to justify the level of financing and interest costs requested. Therefore, the FAA reduced the requested financing costs.

Explosive detection system in-line baggage system.

Determination: Offices and training rooms for the Transportation Security Administration are not PFC eligible, in accordance with paragraph 611 of FAA Order 5100/38C, AIP Handbook (June 28, 2005). In addition, the public agency did not provide sufficient documentation to justify the level of financing and interest costs requested. Therefore, the FAA reduced the requested financing costs.

School soundproofing 2005-2008.

Determination: The public agency provided revised, reduced costs to the FAA on January 8, 2009. Therefore, the approved amount was reduced from that requested in the application. In addition, the public agency did not provide sufficient documentation to justify the level of financing and interest costs requested. Therefore, the FAA reduced the requested financing costs.

Brief Description of Projects Partially Approved for Collection and Use at a \$3.00 PFC Level: Vehicle acquisitions 2005-2011.

Determination: The public agency did not provide cost information for the purchase of one runway broom nor was there evidence that the acquisition of this vehicle had been discussed in the airline consultation. Therefore, the acquisition of one runway broom was not approved. In addition, the public agency did not provide sufficient documentation to justify the level of financing and interest costs requested. Therefore, the FAA reduced the requested financing costs.

Land Acquisition, Runway Protection Zone: 6301 South Cicero Avenue; and 4735–39 West 63rd Street.

Determination: The public agency did not provide sufficient documentation to justify the level of financing and interest costs requested. Therefore, the FAA reduced the requested financing costs. Concourse A infill.

Determination: Several components of the project dealing with airlines operations and concessions spaces are not PFC eligible in accordance with paragraph 611 of FAA Order 5100.38C, AIP Handbook (June 28, 2005). In addition, the public agency did not provide sufficient documentation to justify the level of financing and interest costs requested. Therefore, the FAA reduced the requested financing costs.

Brief Description of Projects Partially Approved for Collection at a \$3.00 PFC Level: Land acquisition, runway protection zone: demolition of 6301 South Cicero Avenue and 4735–39 West

63 Street; acquisition and demolition of 5700 West 55th Street, 632353 South Cicero Avenue, 5600 West 631d Street, 5448 West 55th Street, and 5544–42 West 55th Street.

Determination: The public agency did not provide sufficient documentation to justify the level of financing and interest costs requested. Therefore, the FAA reduced the requested financing costs.

Decision Date: January 21, 2009.

FOR FURTHER INFORMATION CONTACT: Amy Hanson, Chicago Airports District Office, (847) 294–7354.

Public Agency: City of Laredo, Texas.
Application Number: 09–03–C–00–Lrd.

Application Type: Impose And Use A Pfc.

PFC Level: \$4.50.

Total PFC Revenue Approved in this Decision: \$7,852,765.

Earliest Charge Effective Date: January 1, 2013.

Estimated Charge Expiration Date: June 1, 2022.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

- Planning studies.
- Rehabilitate pavement.
- Acquire land.
- Aircraft rescue and firefighting improvements.
- Construct fuel farm.
- Acquire airfield equipment.
- Enhance security.
- Improve terminal.
- PFC audit fees.

Brief Description of Disapproved Project: Lighting fixtures for new employee parking lot.

Determination: This project is not PFC eligible in accordance with § 158.15(b).

Decision Date: January 21, 2009.

FOR FURTHER INFORMATION CONTACT: Guillermo Villalobos, Texas Airport Development Office, (817) 222–5657.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
08–05–C–01–UNV, State College, PA	12/24/08	\$4,139,384	\$4,338,028	12/01/13	12/01/14
93–01–C–01–IWD, Ironwood, MI	01/05/09	74,690	90,531	10/01/06	10/01/06
07–02–C–01–IWD, Ironwood, MI	01/05/09	133,060	128,549	02/01/17	02/01/26
05–09–C–06–CVG, Covington, KY	01/08/09	41,388,000	38,846,000	08/01/11	06/01/11
01–04–C–02–GJT, Grand Junction, CO	01/12/09	1,730,000	1,683,922	07/01/07	09/01/06
03–10–C–01–MDW, Chicago, IL	01/13/08	1,550,000	0	02/01/40	09/01/38
05–03–C–01–BZN, Belgrade, MT	01/13/09	2,891,180	2,115,410	02/01/10	03/01/09
03–03–C–02–ABY, Albany, GA	01/14/09	512,749	457,111	02/01/08	02/01/08
97–02–C–02–CHA, Chattanooga, TN	01/14/09	150,000	103,900	02/01/05	02/01/05
02–07–C–04–MKE, Milwaukee, WI	01/14/09	38,807,888	35,786,991	03/01/17	02/01/16
03–09–U–03–MKE, Milwaukee, WI	01/14/09	NA	NA	03/01/17	02/01/16
06–13–C–02–MKE, Milwaukee, WI	01/14/09	51,947,402	51,853,683	06/01/24	09/01/19
*92–01–1–03–ITH, Ithaca, NY	01/15/09	6,332,880	6,332,880	01/01/99	01/01/15
94–02–C–03–ITH, Ithaca, NY	01/15/09	539,732	539,732	10/01/13	05/01/16
00–04–C–02–TUL, Tulsa, OK	01/15/09	17,900,000	17,900,000	07/01/04	05/01/04
03–05–C–01–ATW, Appleton, WI	01/23/09	318,170	318,410	10/01/08	09/01/08

The amendment denoted by an asterisk (*) includes a change to the PFC level charged from \$3.00 per enplaned passenger to \$4.50 per enplaned passenger. For Ithaca, NY, this change is effective on March 1, 2009.

Issued in Washington, DC on February 12, 2009.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. E9–3826 Filed 2–25–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2009–0020]

Agency Information Collection Activities: Request for Comments for New Information Collection; Truck Congestion Information Assessment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below

under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 27, 2009.

ADDRESSES: You may submit comments identified by DOT Docket ID Number FHWA–2009–0020 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

Hand Delivery or Courier: 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. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David Jones, 202-366-5053, Federal Highway Administration, Department of Transportation, Office of Highway Policy Information, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Truck Congestion Information Assessment.

Background: The Federal Highway Administration's (FHWA) ability to assess congestion is critical for our national leadership role. Highway traffic congestion causes an estimated 3.5 billion hours of delays per year in 75 of the largest metropolitan areas.

The volume of freight, the mix of goods, and the way they are moved has changed dramatically and highway system improvements have not kept pace with the growth and demand for freight transportation, resulting in congestion on our Nation's highways and straining other freight modes as well.

The purpose of this research is to collect highway congestion information to assess highway system performance and validate findings of the report on bottlenecks produced from Speed, Highway Performance Monitoring System (HPMS) and Freight Analysis Framework (FAF) data.

The selected service provider will establish, promote, collect and analyze data from a developed system to provide easy access 24 hours a day, 7 days a week allowing the roadway user a convenient way to report areas of heavy congestion and bottleneck conditions at any point in time encountered nationally on the highway system. Roadside users can report information by using an automated phone system or the internet. The information from the user will be date, time, state, and highway route number, direction of travel, mile marker and weather condition. The reporting from the roadside user is voluntary.

Respondents: Approximately 1200 Interstate roadway users daily, with the majority being truck drivers.

Frequency: Every day for 3 years.

Estimated Average Burden per Response: Each response will be approximately 1 minute.

Estimated Total Annual Burden Hours: Approximately 4,380 hours in the first year, 7,665 the second year, and 9,855 the third year. Totaling 21,900 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: February 20, 2009.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E9-4097 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[U.S. DOT Docket No. FHWA-2008-0183]

FHWA Laboratory and Field Research; Agency Information Collection Activity Under OMB Review

AGENCY: Federal Highway Administration, DOT.

ACTION: Request for comments.

SUMMARY: The FHWA invites the public to comment on our intention to request the Office of Management and Budget (OMB) to approve a new information collection. This collection is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 27, 2009.

ADDRESSES: You may submit comments identified by Docket ID Number FHWA-2008-0183 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Fax: 1-202-493-2251.

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

Hand Delivery or Courier: 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. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Thomas Granda, PhD, Team Leader, Human Centered Systems, Office of Safety Research and Development, HRDS-07, Turner-Fairbank Highway Research Center, Federal Highway Administration, 6300 Georgetown Pike, McLean, VA 22101, tel. 202-493-3365 between 8 a.m. and 5:30 p.m., Monday through Friday, except Federal holidays, or Paul J. Tremont, PhD, (same address) at 202-493-3338.

SUPPLEMENTARY INFORMATION:

Title: FHWA Laboratory and Field Research.

Background: The FHWA invites public comments on our intention to request the Office of Management and Budget (OMB) to approve a total of 30 laboratory/field research studies that will include collections of information from the general public. These studies will be conducted over a period not to exceed three years with a total burden of approximately 5250 hours and an annual burden of approximately 1750 hours.

These collections are integral to the performance of various analytical, field, and laboratory human factors research projects that FHWA plans to conduct in support of its mission of improving safety and increasing mobility on our Nation's highways through National Leadership, Innovation, and Program Delivery.

The laboratory and field research FHWA conducts often involves observations of driver behavior. In the field, these studies are usually completely non-intrusive. However, some field and laboratory research studies require that interview data be collected from individual persons. For example, if drivers are participating in a research study on a novel intersection, interview data might be acquired from a subset of drivers to determine what they observed while driving or how they made their decisions. In these cases the interview will be brief (10-15 minutes). Similar interview data may be acquired when studies are conducted in a laboratory setting.

This planned approval request does NOT include work subsumed under

Subtitle C of Public Law 109–59, Intelligent Systems Transportation Research (ITS). ITS work is exempted from requirements of the Paperwork Reduction Act of 1995, by a Special Rule under Section 5305 of Public Law 109–59, that states the following: “Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment, project, or program assessment activity under this subtitle shall not be subject to Chapter 35 of Title 44, United States Code.”

Research Areas and Associated Collections

The FHWA Office of Safety Research and Development intends to conduct analytical, laboratory and field research projects focused on highway safety that will require acquisition of data from small samples of the general public. This research is directed at human factors issues within the following broad program areas: (A) Infrastructure design including innovative intersection configurations and signage and roadway markings; (B) highway operations; (C) driver-vehicle and infrastructure-vehicle interfaces; (D) older and younger driver programs; and (E) pedestrian and bicyclist issues. Given that the focus of the research in the above areas is on human factors issues, it is necessary that data also be collected on a few key demographic variables such as age, gender, and driving experience. None of the data collected in any of the planned research will be linked to personal identifying information.

Situations That Require Collections of Information—Examples From Each Category

Category A (Infrastructure Design). An example from Category A would be a study designed to test an innovative intersection design such as a Diverging Diamond Interchange (DDI). This is a highly efficient intersection design, but if not properly implemented, it could potentially cause confusion. In a DDI, drivers cross over to the left side of the highway, with the result that opposing traffic is placed on their right side. When testing a DDI, FHWA will need to know whether drivers perceived any ambiguity in the signage, if they had any orientation problems seeing opposing traffic on their right, and if they have any suggestions for improving the overall ease with which such an intersection could be driven. Other innovative intersection designs would also benefit from similar information acquired from drivers. Roadway departure is another problem area that could benefit from individual driver

data. For example, it would be helpful to know how drivers perceive their interaction with the roadway geometry and signage, and then apply that information to design decisions that can lead to reductions in roadway departures.

Category B (Highway Operations). One of the many challenges confronting highway engineers is designing a signal system that maximizes throughput and minimizes delay. Excess delays could result in more drivers running red lights. This problem can be examined by observing drivers' behavior under differing signaling conditions. However, direct verbal reports of drivers are often needed to determine why drivers are making their decisions. For example FHWA may learn from questioning drivers that they would be less likely to speed up when approaching a signal if they knew the signal system would recognize this behavior and respond accordingly. One way this might happen is by advising the motorist earlier of the impending signal change. Driver interviews performed under this study area can provide information on many key issues including behavioral adaptation, decisionmaking, and reaction times to signal phases and changes. This kind of information could lead to improvements to signal controllers that increase mobility and improve safety. Speed management is another area of highway operations that could benefit from interview data. For example, lower speed limits in construction zones are difficult to enforce, and interview data with drivers can provide information on better methods of restraining driver speeds in these hazardous situations.

Category C (Older and Younger Drivers). The opinions of these two high risk groups are needed for almost all FHWA safety related studies. For example, data on the ease of use expressed by older drivers with respect to an innovative design informs the engineer which aspects of the new design that present potential safety problems and may be in need of modification. In contrast, young drivers present a separate set of challenges for highway engineers. Their ability to negotiate a new design may be less of a concern, however; it is necessary to understand how these drivers regard the conflict points presented by new designs. This is of particular importance as some younger drivers may be willing to take extra risks in situations where ambiguity exists. Gathering verbal feedback from younger drivers will help engineers determine areas of potential ambiguity in design and modify these

areas as necessary to ensure they are not introducing safety hazards.

Category D (Pedestrians and Bicyclists). Research related to pedestrians and bicyclists arises from the need to determine the most effective ways to accommodate these infrastructure users. While overt pedestrian and bicyclist behavior can be directly observed fairly easily, it is sometimes necessary to collect user opinions and reactions. For example, when a new intersection design is being introduced (e.g., a triple lane roundabout), it is especially advantageous to acquire data that provides insights into the needs and challenges that pedestrians and bicyclists face as they negotiate such an intersection. The needs of disabled pedestrians are also considered when researching new intersection treatments, and in these efforts FHWA works closely with the U.S. Access Board to ensure that novel intersection treatments accommodate their needs. Another example of research in this area is determining bicyclists' reactions to such treatments as separately marked bicycle lanes, signage, and overall roadway configuration.

Description of How Field and Laboratory Study Participants Will Be Acquired

Samples for research studies will be acquired by advertisement in local papers, by the distribution of flyers, or by postings to the Internet. Typically, interested parties contact FHWA and they are asked a few questions to determine whether they qualify for the study. These questions involve such issues as age, driver familiarity with the location or scenario being used, number of miles driven per year, and gender.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From These Information Collections and Requests for Comments

Respondents: Approximately 6,000 roadway users drawn from the general driving population.

Frequency: This approval request is for 30 studies over a three-year period.

Estimated Average Burden per Respondent: FHWA estimates data acquisition from persons participating in a laboratory or field research study will average about 1 hour. For those field studies only using direct observation of driver behaviors and interviews of randomly selected drivers, the maximum burden (for the interview) will be 15 minutes per participant.

Estimated Total Burden Hours: Assuming 15 studies will be laboratory based, 10 will be field based, and 5 will

use direct observation with 15-minute interviews (.25 hour), the burden is calculated as follows:

Laboratory studies: 15 studies × 200 participants × 1 hour = 3,000 hours

Field studies: 10 studies × 200 participants × 1 hour = 2,000 hours

Field studies (interview only): 5 studies × 200 participants × .25 hour = 250 hours

3-year total = 5,250 hours

Estimated Total Annual Burden Hours:
5,250/3 = 1,750 hours

Public Comments Invited: You are asked to comment on any aspect of these information collections, including: (1) Whether the proposed collections are necessary for FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. FHWA will respond to your comments and summarize or include them when requesting clearance from OMB for these information data collections.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on February 20, 2009.

Judith Kane,

Acting Chief, Management Programs & Analysis Division.

[FR Doc. E9-4098 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-25756]

Commercial Driver's License (CDL) Standards: Granting of Exemption; Volvo Trucks North America (Volvo)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces its decision to grant Volvo Trucks North America, Inc.'s (Volvo) application for an exemption for one of its drivers to enable him to test-drive commercial motor vehicles (CMVs) in the United States without a commercial driver's license (CDL) issued by one of the States. Volvo stated the exemption is needed to support a field test to meet future air quality standards and to test-drive Volvo prototype vehicles to verify

results in "real world" environments. Its driver holds a valid CDL issued in Sweden but lacks the U.S. residency necessary to obtain a CDL issued by one of the States. FMCSA believes the knowledge and skills testing and training program that drivers must undergo to obtain a Swedish CDL ensures that their drivers will achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: This exemption is effective February 26, 2009 and expires February 26, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC-PSD, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the CDL requirements in 49 CFR 383.23 for a 2-year period if it finds "* * * such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption * * * " (49 CFR 381.305 (a)). FMCSA has evaluated Volvo's application on its merits and decided to grant the exemption for its field test engineer, Michael Tellstrom, for a 2-year period.

Volvo Application for an Exemption

Volvo applied for an exemption from the 49 CFR 383.23 requirement that the operator of a CMV obtain a CDL issued by one of the States. This section of the Federal Motor Carrier Safety Regulations (FMCSRs) sets forth the standards that States must employ in issuing CDLs. An individual must be a resident of a State in order to qualify for a CDL. The Volvo driver-employee for whom this exemption is sought is a citizen and resident of Sweden; therefore, he cannot apply for a CDL in any State of the United States. A copy of the request for exemption from section 383.23 is in the docket identified at the beginning of this notice.

Swedish Driver

This exemption enables Michael Tellstrom to test-drive in the U.S. Volvo CMVs that are assembled, sold or primarily used in the U.S. Volvo currently employs this driver in Sweden, and wants him to be able to

test-drive Volvo prototype vehicles at its test site and in the vicinity of Phoenix, Arizona, to verify vehicle results in "real world" environments. He is a highly trained, experienced CMV operator with a valid Swedish-issued CDL. Because he was required to satisfy strict CDL testing standards in Sweden to obtain a CDL and has extensive training and experience operating CMVs, Volvo believes that the exemption will maintain a level of safety equivalent to the level of safety that would be obtained absent the exemption.

Method To Ensure an Equivalent or Greater Level of Safety

According to Volvo, drivers applying for a Swedish-issued CDL must undergo a training program and pass knowledge and skills tests. Volvo believes the knowledge and skills tests and training program that these drivers undergo to obtain a Swedish CDL ensure the exemption would provide a level of safety that is equivalent to, or greater than, the level of safety obtained by complying with the U.S. requirement for a CDL. In addition, Volvo has submitted a copy of the violation-free Swedish driving record of this driver.

FMCSA had previously determined that the process for obtaining a Swedish-issued CDL adequately assesses the driver's ability to operate CMVs in the U.S. Therefore, the process for obtaining a Swedish-issued CDL is considered to be comparable to, or as effective as, the requirements of 49 CFR part 383.

Comments

The Agency received no response to its request for public comments published in the **Federal Register** on January 16, 2009 (74 FR 3130).

Terms and Conditions for the Exemption

Based upon evaluation of the application for an exemption, FMCSA grants Volvo an exemption from the CDL requirement in 49 CFR 383.23 for its driver, Michael Tellstrom, to test-drive CMVs within the United States, subject to the following terms and conditions: (1) That this driver will be subject to drug and alcohol regulations, including testing, as provided in 49 CFR part 382, (2) that this driver is subject to the same driver disqualification rules under 49 CFR parts 383 and 391 that apply to other CMV drivers in the U.S., (3) that this driver keep a copy of the exemption on the vehicle at all times, (4) that Volvo notify FMCSA in writing of any accident, as defined in 49 CFR 390.5, involving this driver, and (5) that

Volvo notify FMCSA in writing if this driver is convicted of a disqualifying offense described in section 383.51 or 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) The driver for Volvo fails to comply with the terms and conditions of the exemption, (2) the exemption has resulted in a lower level of safety than was maintained before it was granted, or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

Issued on: February 19, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9-4148 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2000-8398; FMCSA-2002-12294; FMCSA-2002-12844; FMCSA-2004-17984; FMCSA-2005-20027]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 1, 2009. Comments must be received on or before March 30, 2009.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2000-8398; FMCSA-2002-12294; FMCSA-2002-12844; FMCSA-2004-17984; FMCSA-2005-20027, using any of the following methods.

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the

on-line instructions for submitting comments.

• *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 or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Fax:* 1-202-493-2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at <http://DocketInfo.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers

of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 12 individuals who have requested a renewal of their exemption in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are: David F. Breuer, Wilford F. Christian, Richard S. Cummings, Joseph A. Dean, Jimmy C. Killian, Daniel L. Jacobs, Jimmy C. Killian, Jose M. Limon-Alvarado, Eugene R. Lydick, John W. Montgomery, Billy L. Riddle, Scottie Stewart, Artis Suitt.

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer

than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 78256; 66 FR 16311; 68 FR 13360; 70 FR 12265; 72 FR 11425; 67 FR 46016; 67 FR 57267; 69 FR 51346; 71 FR 50970; 67 FR 68719; 68 FR 2629; 70 FR 16887; 69 FR 33997; 69 FR 61292; 70 FR 2701). Each of these 12 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by March 30, 2009.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications.

The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: February 19, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9-4147 Filed 2-25-09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 20, 2009.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, and 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 30, 2009 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545-0064.

Type of Review: Revision.

Title: Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefits.

Form: 4029.

Description: Form 4029 is used by members of recognized religious groups to apply for exemption from social security and Medicare taxes under IRC sections 1402(g) and 3127. The information is used to approve or deny exemption from social security and Medicare taxes.

Respondents: Individuals or households.

Estimated Total Burden Hours: 3,792 hours.

OMB Number: 1545-1146.

Type of Review: Extension.

Title: Applicable Conventions Under the Accelerated Cost Recovery System PS-54-89 (TD 8444-Final).

Description: The regulations describe the time and manner of making the notation required to be made on Form 4562 under certain circumstances when the taxpayer transfers property in certain non-recognition transactions. The information is necessary to monitor compliance with the section 168 rules.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 70 hours.

OMB Number: 1545-1356.

Type of Review: Extension.

Title: REG-248770-96 (TD 8725-Final) Miscellaneous Sections Affected by the Taxpayer Bill of Rights 2 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Description: The regulations provide guidance with respect to the recovery of administrative costs incurred in connection with an administrative proceeding before the Internal Revenue Service. Procedures that must be followed to recover such costs are set forth.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 86 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622-3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Shagufta Ahmed, (202) 395-7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9-4150 Filed 2-25-09; 8:45 am]

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