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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, June 9, 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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Title 3—

Proclamation 8375 of May 8, 2009

The President

Military Spouse Day, 2009

By the President of the United States of America

A Proclamation

Military spouses share the sacrifices of service with our Nation's men and women in uniform. As members of the Armed Forces serve in the United States and across the world, military spouses also serve our Nation. When a servicemember goes to war, we know their spouse also shares in that sacrifice. I am inspired by their commitment to family and our Nation, and on Military Spouse Day, we honor these individuals for their contributions.

Wives and husbands of servicemembers display an uncommon courage and strength as they steadfastly support their spouses during long and arduous deployments. While they endure separations that are filled with worry and anxiety, they face unique stresses. Foremost is the concern about the safety and well-being of deployed loved ones, but there are many other challenges. From managing household finances to comforting children impacted by a military parent's absence, military spouses take on the burdens of maintaining families largely on their own. This task is complicated even more as spouses work to maintain careers and a sense of community while moving to new duty stations around the country and the world.

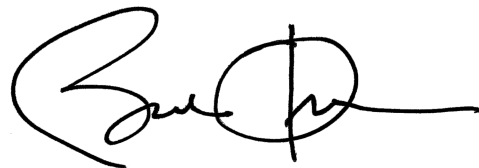
Despite these hardships, military spouses are an inexhaustible source of strength for our military families and donate their time generously to local communities. Military spouses offer the love and encouragement that help servicemembers endure the challenges of serving our Nation. Military spouses support one another as friends and mentors. They serve in family readiness groups to keep fellow spouses informed and to provide mutual support. They contribute as volunteers to improve neighborhoods, military installations, and communities. These contributions strengthen both our Nation's character and its security.

All Americans should express appreciation for military spouses and let them know they are not alone. To help those who need it, friends, co-workers, and neighbors can offer to help with the burden of daily tasks and thus give military spouses more time for themselves and their families. To assist spouses who are coping with the absence of a loved one, individuals can listen and offer their counsel. Americans can also volunteer through the many organizations that provide assistance to military families.

Our Nation maintains a sacred trust with every individual who serves. My Administration is committed to showing our Nation's gratitude for them by honoring our obligations to their families.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 8, 2009, as Military Spouse Day. I call upon the people of the United States to honor military spouses with appropriate ceremonies and activities today and in the future.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of May, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

A handwritten signature in black ink, appearing to be "Barack Obama", with a large circular flourish and a horizontal line extending to the right.

[FR Doc. E9-11313

Filed 5-12-09; 8:45 am]

Billing code 3195-W9-P

Presidential Documents

Title 3—

Proclamation 8376 of May 8, 2009

The President

Mother's Day, 2009

By the President of the United States of America

A Proclamation

The time-honored tradition of recognizing mothers grew out of the imagination of a few bold women. Julia Ward Howe, composer of *The Battle Hymn of the Republic*, urged mothers to advocate for peace through a day dedicated to them. After her own mother passed away, Anna Jarvis sought to recognize the great influence mothers have on society. These efforts led to the recognition of mothers through a Congressional Resolution and President Woodrow Wilson's proclamation of the first Mother's Day in 1914. Today, we proudly carry forward this tradition in honor of mothers, the special women whose love and lessons profoundly impact our lives.

Mothers are the bedrock of the American family—vital to their children's growth and happiness and to the success of our country. Children's lives are shaped by their mothers, whose care provides the foundation for their development. Mothers instill the values and confidence that help define their children's character and self-esteem, and offer a guiding clarity of spirit. Mothers are role models, teachers, and sources of unconditional support. There is no substitute for the bond of love between mother and child, and nothing is more worthy of reverence.

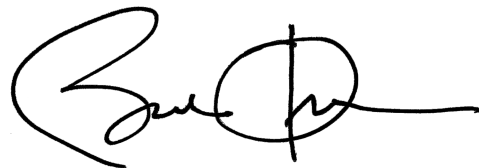
Across America, mothers raise children under an array of circumstances. They may care for a child with the help of a spouse, family members, and friends, or they may do this job alone as a single parent. They may be biological mothers, adoptive mothers, or foster mothers, but all open their hearts to their children and nurture them through their life journey. Caring for children also means putting food on the table, ensuring their needs are met, and staying involved in their daily lives. Women often work long hours at demanding jobs and then return home to a household with myriad demands. Balancing work and family is no easy task, but mothers across our Nation meet this challenge each day, often without recognition for their hard work and dedication. The strength and conviction of all mothers—including those who work inside and outside the home—are inspiring. They deserve our deepest respect, admiration, and appreciation.

A mother's love is a cherished blessing, for it is selfless, unconditional, and true. This Mother's Day, let us honor our mothers who continue to inspire us, and remember those whose loving spirits sustain us still.

The Congress, by a joint resolution approved May 8, 1914 (38 Stat. 770), has designated the second Sunday in May each year as "Mother's Day" and requested the President to call for its appropriate observance.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim May 10, 2009, as Mother's Day. I urge all Americans to express their love, respect, and gratitude to mothers everywhere, and I call upon all citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of May, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

A handwritten signature in black ink, appearing to be "Barack Obama", with a large circular flourish and a horizontal line extending to the right.

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Rules and Regulations

Federal Register

Vol. 74, No. 91

Wednesday, May 13, 2009

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.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206-AL79

Prevailing Rate Systems; Redefinition of the Fresno and Stockton, CA, Appropriated Fund Federal Wage System Wage Areas

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management is issuing a final rule to redefine the geographic boundaries of the Fresno and Stockton, CA, appropriated fund Federal Wage System (FWS) wage areas. The final rule redefines Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties, CA, to the Stockton wage area. These changes are based on recent consensus recommendations of the Federal Prevailing Rate Advisory Committee to best match the counties proposed for redefinition to a nearby FWS survey area.

DATES: *Effective date:* This regulation is effective on May 13, 2009.

Applicability date: The affected employees in Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties will be placed on the wage schedule for the Stockton wage area on the first day of the first applicable pay period beginning on or after June 12, 2009.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606-2838; email pay-performance-policy@opm.gov; or FAX: (202) 606-4264.

SUPPLEMENTARY INFORMATION: On February 4, 2009, the U.S. Office of Personnel Management (OPM) issued a

proposed rule (74 FR 6003) to redefine the geographic boundaries of the Fresno and Stockton, CA, appropriated fund Federal Wage System (FWS) wage areas for blue-collar Federal employees. The proposed rule would redefine Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties, CA, to the Stockton FWS wage area. The 30-day comment period ended on March 6, 2009. Public comments supported these changes but numerous white-collar General Schedule (GS) employees also recommended that Fresno, Stanislaus, and Tulare Counties, CA, be moved from the Rest of U.S. (RUS) GS locality pay area to the San Jose-San Francisco-Oakland, CA GS locality pay area.

The recommendation on GS locality pay areas is beyond the scope of this rule. The proposed rule addressed only blue-collar FWS wage area boundaries, not white-collar GS locality pay area boundaries. Therefore, this final regulation does not make changes to GS locality pay areas.

Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties are currently defined to the Fresno FWS area of application and coincide with the RUS GS locality pay area. Analysis of OPM's regulatory criteria for defining FWS wage area boundaries shows that Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties are more appropriately defined as part of the Stockton FWS area of application. This final regulation will, therefore, redefine Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties to the Stockton FWS area of application. Because this final regulation makes no changes to GS locality pay areas, Mariposa and Merced Counties and the Yosemite National Park portion of Madera and Tuolumne Counties will continue to coincide with the RUS GS locality pay area.

Fresno and Tulare Counties are part of the Fresno FWS wage area and Stanislaus County is part of the Stockton FWS wage area. This regulation makes no changes to the FWS definition of these counties. Fresno, Stanislaus, and Tulare Counties will also continue to coincide with the RUS GS locality pay area.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

John Berry,
Director.

■ Accordingly, the U.S. Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 2. In appendix C to subpart B, the wage area listing for the State of California is amended by revising the listings for Fresno and Stockton, to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

California Fresno Survey Area

California:
Fresno
Kings
Tulare

Area of Application. Survey area plus:

California:

Kern (Does not include China Lake Naval Weapons Center, Edwards Air Force Base, and portions occupied by Federal activities in Boron (City).)
Madera (Does not include Devils Postpile National Monument and Yosemite National Park portions.)

* * * * *

Stockton Survey Area

California:
San Joaquin

Area of Application. Survey area plus:

California:

Calaveras
Madera (Only includes Yosemite National Park portion.)
Mariposa
Merced
Stanislaus
Tuolumne

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[FR Doc. E9-11193 Filed 5-12-09; 8:45 am]

BILLING CODE 6325-39-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0433; Directorate Identifier 2009-NM-003-AD; Amendment 39-15902; AD 2009-10-07]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A380-841, -842, and -861 Airplanes

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

ACTION: Final rule; request for comments.

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

During the flight test campaign of the A380-861 model (Engine Alliance powered), some cracks were found on the Movable Flap Track Fairing number 6 (MFTF#6).

These cracks were located at the pivot attachment support-ring and at the U-frame in the attachment area to aft-kinematic. In addition, delamination has been observed within the monolithic Carbon Fibre Reinforced Plastic (CFRP) structure around the pivot support-ring.

This condition, if not corrected, could lead to in-flight loss of the MFTF#6, potentially resulting in injuries to persons on the ground.

* * * * *

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective May 28, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 28, 2009.

We must receive comments on this AD by June 12, 2009.

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

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

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

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008-0216, dated December 9, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

During the flight test campaign of the A380-861 model (Engine Alliance powered), some cracks were found on the Movable Flap Track Fairing number 6 (MFTF#6).

These cracks were located at the pivot attachment support-ring and at the U-frame in the attachment area to aft-kinematic. In addition, delamination has been observed within the monolithic Carbon Fibre Reinforced Plastic (CFRP) structure around the pivot support-ring.

This condition, if not corrected, could lead to in-flight loss of the MFTF#6, potentially resulting in injuries to persons on the ground.

To prevent the risk of a MFTF#6 detachment, this Airworthiness Directive (AD) requires an inspection program in order

to detect cracks [and delamination] before they become critical and in case of findings to replace the MFTF#6 [with a new or serviceable part].

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

Relevant Service Information

Airbus has issued Service Bulletin A380-57-8014, including Appendix 01, dated November 21, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and

opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0433; Directorate Identifier 2009-NM-003-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009-10-07 Airbus: Amendment 39-15902. Docket No. FAA-2009-0433; Directorate Identifier 2009-NM-003-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 28, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A380-841, -842 and -861 airplanes, certificated in any category, all serial numbers.

Subject

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

Reason

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

"During the flight test campaign of the A380-861 model (Engine Alliance powered), some cracks were found on the Movable Flap Track Fairing number 6 (MFTF#6).

"These cracks were located at the pivot attachment support-ring and at the

"U-frame in the attachment area to aft-kinematic. In addition, delamination has been observed within the monolithic Carbon Fibre Reinforced Plastic (CFRP) structure around the pivot support-ring.

"This condition, if not corrected, could lead to in-flight loss of the MFTF#6, potentially resulting in injuries to persons on the ground.

"To prevent the risk of a MFTF#6 detachment, this Airworthiness Directive (AD) requires an inspection program in order to detect cracks [and delamination] before they become critical and in case of findings to replace the MFTF#6 [with a new or serviceable part]."

Actions and Compliance

(f) Unless already done, do the following:

(1) At the applicable time specified in paragraph (f)(1)(i) or (f)(1)(ii) of this AD for the left- and right-hand MFTF#6, do a special detailed (ultrasonic and high-frequency eddy current) inspection of the fillet radii of pivot supports, monolithic carbon fibre reinforced plastic structures, and radii of U-Frame, and a general visual inspection of MFTF#6, for cracking and delamination, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A380-57-8014, dated November 21, 2008.

(i) For Model A380-841 and -842 airplanes: Before the MFTF#6 has accumulated 500 total flight cycles since its first installation on an airplane, or within 30 flight hours after the effective date of this AD, whichever occurs later.

(ii) For Model A380-861 airplanes: Before the MFTF#6 has accumulated 100 total flight cycles since its first installation on an airplane, or within 30 flight hours after the effective date of this AD, whichever occurs later.

(2) If no cracking and no delamination are detected during any inspection required by paragraph (f)(1) of this AD, repeat the inspections required by paragraph (f)(1) of this AD thereafter at intervals not to exceed the applicable time specified in paragraph (f)(2)(i) or (f)(2)(ii) of this AD.

(i) For Model A380-841 and -842 airplanes: 50 flight cycles.

(ii) For Model A380-861 airplanes: 10 flight cycles.

(3) If any cracking or delamination is found during any inspection required by paragraph (f)(1) or (f)(2) of this AD, before further flight, replace the MFTF#6 with a new or serviceable part, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A380-57-8014, dated November 21, 2008, and repeat the inspections specified in paragraph (f)(1) of this AD at the applicable time defined in paragraph (f)(2) 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, 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 maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District

Office. The AMOC approval letter must specifically reference this AD.

(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 Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2008-0216, dated December 9, 2008; and Airbus Service Bulletin A380-57-8014, dated November 21, 2008; for related information.

Material Incorporated by Reference

(i) You must use Airbus Service Bulletin A380-57-8014, including Appendix 01, dated November 21, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Airbus SAS-EANA (Airworthiness Office); 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 562 110 253; Fax +33 562 110 307; e-mail account.airworth-A380@airbus.com; Internet <http://www.airbus.com>.

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

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

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

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-10934 Filed 5-12-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0135; Directorate Identifier 2008-NM-170-AD; Amendment 39-15901; AD 2009-10-06]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-400 and 747-400D Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 747-400 and 747-400D series airplanes. This AD requires repetitive inspections to detect cracks in the floor panel attachment fastener holes of the Section 41 upper deck floor beam upper chords, and related investigative and corrective actions if necessary. This AD results from reports of cracks found in the Section 41 upper deck floor beam upper chords. We are issuing this AD to detect and correct cracks in these chords, which could become large and cause the floor beams to become severed and result in rapid decompression or reduced controllability of the airplane.

DATES: This AD is effective June 17, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 17, 2009.

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

Examining the AD Docket

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

evaluation, any comments received, and other information. The address for the Docket Office (telephone 800-647-5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 747-400 and 747-400D series airplanes. That NPRM was published in the **Federal Register** on February 18, 2009 (74 FR 7573). That NPRM proposed to require repetitive inspections to detect cracks in the floor panel attachment fastener holes of the Section 41 upper deck floor beam upper chords, and related investigative and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. Boeing supports the NPRM.

Conclusion

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

Costs of Compliance

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

TABLE—ESTIMATED COSTS

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

Authority for This Rulemaking

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

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

Regulatory Findings

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:

2009-10-06 Boeing: Amendment 39-15901. Docket No. FAA-2009-0135; Directorate Identifier 2008-NM-170-AD.

Effective Date

- (a) This airworthiness directive (AD) is effective June 17, 2009.

Affected ADs

- (b) None.

Applicability

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

Subject

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

Unsafe Condition

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

Compliance

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

Inspections and Corrective Actions

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

Instructions of the service bulletin. Repeat the inspections thereafter at the applicable times specified in paragraph 1.E., "Compliance," of the service bulletin.

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

- (i) Where Boeing Alert Service Bulletin 747-53A2688, dated August 21, 2008, specifies a compliance time after the date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

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

Material Incorporated by Reference

- (k) You must use Boeing Alert Service Bulletin 747-53A2688, dated August 21, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

- (2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services

Management, P.O. Box 3707, MC 2H-65, Seattle, Washington 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; e-mail me.boecom@boeing.com; Internet <https://www.myboeingfleet.com>.

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

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

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

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-10935 Filed 5-12-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-1131; Directorate Identifier 2008-NE-37-AD; Amendment 39-15903; AD 2009-10-08]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney Models PW2037, PW2037(M), and PW2040 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Pratt & Whitney models PW2037, PW2037(M), and PW2040 turbofan engines with high-pressure turbine (HPT) 2nd stage hubs that have previously been exposed to Pratt & Whitney cleaning procedure SPOP 10 or SPOP 9 or equivalent procedure. This AD requires a onetime optical comparator inspection (OCI) of the blade retention slots of the affected HPT 2nd stage hubs at the next HPT overhaul after the effective date of the AD. This AD results from an uncontained release of HPT 2nd stage blades and blade retention lugs. We are issuing this AD to remove nonconforming HPT 2nd stage hubs, which could result in an uncontained release of turbine blades and blade retention lugs, and damage to the airplane.

DATES: This AD becomes effective June 17, 2009.

ADDRESSES: You can get the service information identified in this AD from Pratt & Whitney, 400 Main Street, East Hartford, CT 06108.

The Docket Operations office is located at 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: Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: mark.riley@faa.gov; telephone (781) 238-7758, fax (781) 238-7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to PW models PW2037, PW2037(M), and PW2040 turbofan engines. We published the proposed AD in the **Federal Register** on November 14, 2008 (73 FR 67427). That action proposed to require inspecting all HPT 2nd stage hubs at the next HPT overhaul after the effective date of the 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.

Recommend Referring to the Inspection as “Special Dimensional Inspection”

Pratt & Whitney recommends that the inspection in the proposed AD be referred to as a “Special Dimensional Inspection” per Pratt & Whitney Alert Service Bulletin (ASB) PW2000 72-734, which is approved by the FAA. The proposed AD currently specifies an Optical Comparator Inspection (OCI). Use of the term “Special Dimensional Inspection” instead of OCI will provide better alignment with the inspection procedures that Pratt & Whitney is presently developing and for which it

will seek FAA approval, to use as an alternative to OCI.

We do not agree. The inspection is an OCI. Therefore, identifying the type of inspection the AD requires by its name is proper. We did not change the AD.

Request To Revise the Estimated Cost

Pratt & Whitney and two air carriers request that we revise the estimated cost to perform an OCI. Pratt & Whitney states that the cost is higher than previously anticipated and we should add about \$4,000 to the cost of each disk overhaul. Delta Air Lines states that the total cost is actually closer to \$8,000 and it should include shipping (\$1,000), vendor charges (\$5,900), and should take into account additional inventory required (\$180,000 per hub) due to out-of-service time required to support the off-site inspection.

We partially agree. We agree that the cost estimate in the proposed AD is not accurate. We do not agree that it should consider shipping charges or additional inventory requirements unique to each operator. We changed the cost to perform the OCI to \$4,000 for each HPT stage 2 hub as quoted by Pratt & Whitney and updated the total to \$3,048,000.

Request for Clarification of the Inspection Being a Onetime Inspection

Pratt & Whitney and two air carriers request clarification in the AD to state that the inspection is a onetime inspection. Also, Delta Air Lines comments that repetitive inspections should be required unless the cause of the hub out-of-tolerance condition is addressed. They also stated that the cause of the hub out-of-tolerance condition is not known and repetitive inspections are therefore required.

We partially agree. We agree that we need to clarify that the OCI is a onetime inspection requirement. We changed the AD to clarify that the OCI is a onetime inspection requirement. We do not agree that the AD should require repetitive inspections. If we determine at a later date that repetitive inspections are required, we may issue an AD to require them.

Proposal To Eliminate the Fluorescent Penetrant Inspection

Pratt & Whitney and United Airlines propose that we eliminate the fluorescent penetrant inspection (FPI) requirement for the HPT 2nd stage hub. FPI of the HPT 2nd stage hub is redundant, since it is already mandated per FAA AD 2005-18-03.

We agree. We changed the AD to only require a onetime OCI of the HPT 2nd stage hub after the fluorescent penetrant

inspection and all shop cleaning processes have been completed.

Proposal To Reduce the Affected Population of HPT 2nd Stage Hubs

Pratt & Whitney proposes that we reduce the affected population of HPT 2nd stage hubs to only those that have been exposed to Pratt & Whitney cleaning procedure SPOP 10 or SPOP 9 (cleaning processes that have similar abrasive characteristics) during their shop overhaul history. Based on recent findings from the NTSB-led investigation, the blade slot dimensional variations on the event hub and on other inspected hubs resulted from a specific process used during the cleaning of hubs during the normal overhaul process.

We agree. We changed the AD applicability to state that this AD applies to Pratt & Whitney models PW2037, PW2037(M), and PW2040 turbofan engines with HPT 2nd stage hubs that have previously been exposed to Pratt & Whitney cleaning procedure SPOP 10 or SPOP 9 or equivalent procedure.

Proposal To Delay Issuance of AD

United Airlines proposes that we delay issuance of the AD, because initial OCI results are showing a 25% reject rate. This suggests that the proposed inspections will not detect the problem that led to the one industry failure. Otherwise, the industry failure rate would be higher. Consequently, issuing the AD would be premature, as the failure mechanism is not understood, and it is not clear that the proposed inspections will prevent future failures.

We do not agree. The investigation identified that an out-of-tolerance condition of the HPT 2nd stage hub blade slots is the cause of the failure event. However, the root cause of the out-of-tolerance condition is still under investigation, but is believed to have been caused by aggressive cleaning with an abrasive media blast. Inspection of the HPT 2nd stage hub blade slots is required to identify hubs that are out-of-tolerance, to minimize the risk of future failures. Pratt & Whitney is reviewing the current acceptance criteria for the OCI of HPT 2nd stage hub blade slots, and if appropriate, may revise these limits to reduce the current reject rate. We did not change the AD.

Proposal To Remove the Reporting Requirement From the AD

Three air carriers propose that we remove the requirement for operators to be responsible for reporting HPT 2nd stage hub OCI results within 72 hours of the inspection. Delta Air Lines also asks

if they are required to report OCI results after the 6-month period, since not all of their HPT 2nd stage hubs will go through overhaul within 6 months. The three air carriers state that it will be extremely difficult for operators to comply with the reporting requirements of the proposed rule, because it will not be the operators performing the inspections. The sole source that performs the inspections, (Pratt & Whitney), should be responsible for reporting to the FAA.

We agree. We removed the reporting requirement from the AD.

Request That an Alternate Inspection Be Developed That Is Not Source-Approved

Two air carriers request that an alternate inspection method be developed that is not source-approved and will permit all overhaul shops the capability to perform the inspection. They state that Pratt & Whitney is currently the only source-approved vendor for the OCI. Operators are experiencing turn times in excess of 30 days, which is a hardship to them.

We agree that an alternate inspection procedure that can be performed by all overhaul facilities is preferred. However, we are unaware of any that may exist. We will evaluate any proposed alternative inspection an operator may submit as an alternative method of compliance. We did not change the AD.

Compliance Time Should Be Revised

The National Transportation Safety Board (NTSB), states that the compliance time should be revised to reflect the recommended compliance time in the NTSB Urgent Safety Recommendation A-08-85. That compliance time requires removal of all PW2037 2nd stage turbine hubs for inspection when they have accumulated significantly fewer hours and/or cycles than the incident engine (10,880 hours and/or 4,392 cycles). The 10,880 hours and 4,392 cycles referenced in A-08-85 were based on the time and cycles that the incident engine had accumulated from the last overhaul until engine failure. Metallurgical examination of the failed hub was not able to discern any fatigue striations, so it is unknown how long it took those fatigue cracks to progress to failure. Typically, when the cause of the failure, or length of time for a crack to progress to failure is unknown, the time and/or cycles, whichever is less, since the part was new or overhauled until failure, is divided by a factor of two or three to establish a compliance schedule.

We do not agree. The field management plan defined in the proposed AD is based on a risk analysis performed by Pratt & Whitney, which we reviewed and concluded is adequate. Further, additional field data received to-date has not indicated any increased risk, or that a more restrictive field plan is required. We did not change the AD.

Proposed OCI Procedure Should Be Revised

The NTSB states that the proposed OCI procedure should be revised to also require that the blade slots be measured using a coordinate measuring machine (CMM) or another dimensional inspection device capable of measuring deviations in the center of the blade slots. The OCI procedure is limited to only measure the blade slot profile on the forward and aft ends of the blade slot. The current procedure does not measure the center portion of the blade slot.

We partially agree. We agree that the current OCI procedure is limited such that it cannot measure the center portion of the blade slot. However, we disagree that the OCI procedure is not an acceptable inspection method to identify non-conforming hubs. We verified that the OCI procedure can identify HPT 2nd stage hubs with non-conforming blade retention slots. We established limits for OCI that ensured that no parts with non-conformances similar to the event hub would be released into service. We continue to work with Pratt & Whitney to identify other improved inspection methods that can be used as an alternate to OCI. We did not change the AD.

AD Compliance Should Also Include Inspection of the HPT 2nd Stage Blade Root Serrations for Uneven Contact Wear

The NTSB states that the AD compliance should also include inspection of the HPT 2nd stage blade root serrations for uneven contact wear, as defined in the PW2000 Engine Manual, Task 72-52-17-200-014, Inspection/Check 14. The AD should also specify an action to take with the HPT 2nd stage hubs if any HPT 2nd stage blades are detected with uneven wear. The HPT 2nd stage blades removed from the incident engine showed evidence of uneven contact wear on the blade root serrations. The AD should therefore also include inspection of the HPT 2nd stage blades and include an action to take with the hub if blades are detected to have root serrations with uneven wear.

We do not agree. Inspection of the HPT 2nd stage blade root serrations was

incorporated in the PW2000 Engine Manual to address a non-conformance issue for the blades and is performed during normal inspection. All blades that are identified with uneven wear on the root serrations are rejected and removed from service. The cause of failure of the incident engine was due to a nonconformance of the HPT 2nd stage hub blade retention slots. All HPT 2nd stage hubs that have previously been exposed to Pratt & Whitney cleaning procedure SPOP 10 or SPOP 9 or equivalent procedure will require OCI per the AD. All non-conforming hubs will be identified by OCI and removed from service. We did not change the AD.

AD Should Mandate That All of the HPT 2nd Stage Hub Blade Slots Be Inspected Using OCI

The NTSB states that the AD should mandate that all of the HPT 2nd stage hub blade slots be inspected using OCI. The current procedure only requires that every fourth blade retaining slot in the hub be inspected. The incident engine had cracks in several adjacent blade retaining lugs that resulted in the simultaneous release of multiple blades that exceeded the turbine case's containment capability. If only every fourth slot in the hub is inspected, then two adjacent nonconforming blade slots could slip through the inspection and result in an uncontained engine failure.

We do not agree. Inspecting every fourth blade retaining slot will identify all non-conforming hubs. HPT 2nd stage hubs that are aggressively cleaned using a grit blast procedure will typically have a high number of non-conforming slots. Field inspection data to-date indicates that this assumption currently remains valid. We did not change the 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 762 engines installed on airplanes of U.S. registry. We also estimate that it will take about 50 work-hours per engine to perform the actions, and that the average labor rate is \$80 per work-hour. No parts are required. Based on these figures, we estimate the total cost of the AD to U.S. operators to be \$3,048,000.

Authority for This Rulemaking

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

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

Regulatory Findings

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:

2009–10–08 Pratt & Whitney: Amendment 39–15903. Docket No. FAA–2008–1131; Directorate Identifier 2008–NE–37–AD.

Effective Date

- (a) This airworthiness directive (AD) becomes effective June 17, 2009.

Affected ADs

- (b) None.

Applicability

- (c) This AD applies to Pratt & Whitney models PW2037, PW2037(M), and PW2040 turbofan engines with high-pressure turbine (HPT) 2nd stage hubs that have previously been exposed to Pratt & Whitney cleaning procedure SPOP 10 or SPOP 9 or equivalent procedure. These engines are installed on, but not limited to, Boeing 757–200 and 757–300 airplanes.

Unsafe Condition

- (d) This AD results from an uncontained release of HPT 2nd stage blades and blade retention lugs. We are issuing this AD to remove nonconforming HPT 2nd stage hubs, which could result in an uncontained release of turbine blades and blade retention lugs, and damage to the airplane.

Compliance

- (e) You are responsible for having the actions required by this AD performed at the next HPT overhaul, unless the actions have already been done.

Onetime Optical Comparator Inspection (OCI) of HPT 2nd Stage Hubs

- (f) Perform a onetime optical comparator inspection of the HPT 2nd stage hubs after a fluorescent penetrant inspection and all shop cleaning processes have been completed. Pratt & Whitney Alert Service Bulletin No. PW2000 A72–734, dated November 3, 2008, contains information about the optical comparator inspection.

- (g) Remove from service any hubs that fail the optical comparator inspection.

Definition

- (h) This AD defines an HPT overhaul as when the HPT is at its piece-part level.

Alternative Methods of Compliance

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

Related Information

- (j) Contact Mark Riley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: mark.riley@faa.gov; telephone (781) 238–7758, fax (781) 238–7199, for more information about this AD.

- (k) Pratt & Whitney Alert Service Bulletin No. PW2000 A72–734, dated November 3, 2008, contains information about the optical comparator inspection.

Material Incorporated by Reference

(l) None.

Issued in Burlington, Massachusetts, on May 4, 2009.

Peter A. White,

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

[FR Doc. E9-10953 Filed 5-12-09; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2007-27747; Directorate Identifier 2007-CE-030-AD; Amendment 39-15904; AD 2009-10-09]

RIN 2120-AA64

Airworthiness Directives; Cessna Aircraft Company 150 and 152 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Cessna Aircraft Company (Cessna) 150 and 152 series airplanes. This AD requires you to either install a placard prohibiting spins and other acrobatic maneuvers in the airplane or to replace the rudder stop, rudder stop bumper, and attachment hardware with a new rudder stop modification kit and replace the safety wire with jamnuts. This AD results from follow-on investigations of two accidents where the rudder was found in the over-travel position with the stop plate hooked over the stop bolt heads. While neither of the accident aircraft met type design, investigations revealed that aircraft in full conformity with type design can exceed the travel limits set by the rudder stops. We are issuing this AD to prevent the rudder from traveling past the normal travel limit. Operation in this non-certificated control position is unacceptable and could cause undesirable consequences, such as contact between the rudder and the elevator.

DATES: This AD becomes effective on June 17, 2009.

On June 17, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: To get the service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316)

517-5800; fax: (316) 517-7271; Internet: <http://www.cessna.com>.

To view the AD docket, go to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or on the Internet at <http://www.regulations.gov>. The docket number is FAA-2007-27747; Directorate Identifier 2007-CE-030-AD. **FOR FURTHER INFORMATION CONTACT:** Ann Johnson, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946-4105; fax: (316) 946-4107.

SUPPLEMENTARY INFORMATION:**Discussion**

On April 10, 2007, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Cessna Aircraft Company (Cessna) 150 and 152 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on April 16, 2007 (72 FR 18925). The NPRM proposed to require replacement of the rudder stop, rudder stop bumper, and attachment hardware with a new rudder stop modification kit and replacement of the safety wire with jamnuts.

Comments

We provided the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: SAIB Instead of NPRM

Joseph Morales, Gary Iverson, Sr., Al Roesner, Gerald D. Clark, Al Dyer, Neal Trullson, McBride Aircraft Group, Matthew M. Gosslein, Samuel K. McCauley, Robert E. Hackman from the Aircraft Owners and Pilots Association (AOPA), and Tom Carr from the Cessna Pilots Association (CPA) comment that the FAA should withdraw the NPRM and issue a special airworthiness information bulletin (SAIB). The commenters state that if the aircraft is properly maintained and rigged, then no problems exist; problems should easily be detected visually during routine maintenance; and a rudder system that is built and installed correctly is virtually impossible to jam. The commenters state adequate regulations and requirements are in place to assure the inspection of the rudder system is completed during annual or 100-hour inspections in 14 CFR part 43, Appendix D and in the Cessna service

publication. In addition, the commenters point out the following:

- Two service difficulty reports were found but none for a jammed rudder.
- In the Ohio accident, the rudder stop was installed inverted, and the functionality of the stop configuration was compromised.
- If you remove the right rudder return spring and disconnect the right rudder control cable, then the left locked rudder event from the Canadian accident could be duplicated.
- The two accident airplanes were not airworthy prior to flight.

The commenters further state that requiring replacement of the rudder stop, rudder stop bumper, attachment hardware, and substituting safety wire with jamnuts is an overreaction. The commenters request that the FAA withdraw the NPRM and issue an SAIB since the problem is with a very limited number of airplanes, specifically the Cessna Model 152, and improper maintenance was cited as the cause of the two previously mentioned accidents. The commenters state the airplanes have flown for 51 years and thousands of hours with no previous problems, and installing the original equipment manufacturer (OEM) kit on 17,090 domestic airplanes would put the airplanes at risk.

We do not agree that this action should be an SAIB instead of an AD. While the two accident aircraft were not airworthy, the issue that needs to be corrected is a design issue, not a maintenance issue. Follow-on investigations did reveal that rudders on aircraft in full conformity with type design can exceed the travel limits set by the rudder stops. Operation in this non-certificated control position is unacceptable and could cause undesirable consequences. Markings on one accident aircraft correspond with previous contact between the rudder and elevator, and similar markings were noted on several in-service airplanes. We will change the final rule AD to provide another option in lieu of the actions in the proposed AD. For the new option, the limitations section in the airplane flight manual (AFM) and the pilots operating handbook (POH) must be changed to prohibit acrobatics. A placard would be displayed on the instrument panel in clear view of the pilot with the words "INTENTIONAL SPINS AND OTHER ACROBATIC/AEROBATIC MANEUVERS PROHIBITED PER AD 2009-10-09."

We retain as an option the actions complying with the service information as specified in the proposed AD. After such action is done, the specified

operational limitations in the added option (if utilized) may be removed.

We are changing the final rule AD action by adding language to address the option of the operational limitations.

Comment Issue No. 2: How Is Change Justified

Cessna Aircraft Company states that the National Transportation Safety Board (NTSB) recommendation of mandating by AD the installation of the Cessna service kit would not have prevented the accidents. Cessna states that they have no data that indicates a flight or ground procedure can deflect the rudder stop to a position where the stop is behind the bolt. From the dirt in the accident photograph, Cessna believes forces generated in the accident moved the rudder relative to the rudder stop, and that is how it hooked behind the stop. Cessna states that in the Canadian accident the rudder was possibly pushed over the stop by hydrodynamic or inertia forces. Cessna notes that if both rudder pedals were pressed simultaneously, then the rudder stop would slip below the stop bolts and contact the fuselage skin without any tendency to jam; larger stops and bolts minimize this tendency. A Cessna service bulletin was issued in 2001 to address this concern. Cessna has no objection to adoption of an AD mandating installation of the service kit.

We agree with Cessna that the rudder stop can slip below the stop bolts and contact the fuselage skin but will not jam. This slippage below the stop bolt is not acceptable, and we agree that the Cessna kits will prevent this from

occurring. In addition (and more central to this AD), installing the kits will prevent the rudder from exceeding its travel limits, which will prevent contact between the rudder and the elevator. One of the options for addressing the unsafe condition in this AD is the installation of such kits.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 3: Cost Is Excessive

Joseph Morales, Al Roesner, Gerald D. Clark, and Al Dyer comment that the expenses stated in the Cessna service bulletin and in the NPRM are excessive. We disagree. We received an estimated parts cost of \$90 (as of January 2009) from the manufacturer with 4 hours of labor. At \$80 per hour, the total cost to install a kit would be about \$410 per airplane. The added operation limitation option, as described in Comment Issue No. 1, would permit compliance with the AD with minimal cost. Since we expect most operators will comply by simply installing the placard, the cost to the entire fleet would be greatly reduced.

We are not changing the final rule AD action based on this comment.

Comment Issue No. 4: Rush to Judgment

Joseph Morales comments that the FAA rushed to judgment taking AD action for a condition that could be discovered during routine maintenance by the operator or mechanic. The commenter believes that the amount of actual accidents because of this condition proves this point.

We agree that some problems with the rudder system can be determined

visually during routine maintenance. However, the issue that needs to be corrected is a design issue, not a maintenance issue. We disagree that this is a rush to judgment. By installing the kits, aircraft performing acrobatics/aerobatics will be protected from the rudder exceeding its travel limits. Operation in this non-certificated control position is unacceptable and could cause undesirable consequences, such as rudder and elevator contact. Since the NPRM was published, even more thought was given to this AD by giving non-acrobatic/aerobatic operators the option of installing a placard, prohibiting acrobatic/aerobatics instead of installing the modification kit. We are not changing the final rule AD action based on this comment.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for the changes previously discussed and minor editorial corrections. We have determined that these minor corrections:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD affects 17,090 airplanes in the U.S. registry.

We estimate the following costs to insert the operational limitation:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work-hour × \$80 per hour = \$80	Not applicable	\$80	\$1,367,200

We estimate the following costs to do the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 work-hours × \$80 per hour = \$320	\$90	\$410	\$7,006,900

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 AD.

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 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 summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include “Docket No. FAA–2007–27747; Directorate Identifier 2007–CE–030–AD” in your request.

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 Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (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. FAA amends § 39.13 by adding a new AD to read as follows:

2009–10–09 Cessna Aircraft Company:
Amendment 39–15904; Docket No. FAA–2007–27747; Directorate Identifier 2007–CE–030–AD.

Effective Date

(a) This AD becomes effective on June 17, 2009.

Affected ADs

(b) None.

Applicability

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

Models	Serial Nos.
(1) 150F	15061533 through 15064532.
(2) 150G	15064533 through 15064969 and 15064971 through 15067198.
(3) 150H	15067199 through 15069308 and 649.
(4) 150J	15069309 through 15071128.
(5) 150K	15071129 through 15072003.
(6) 150L	15072004 through 15075781.
(7) 150M	15075782 through 15079405.
(8) A150K	A1500001 through A1500226.
(9) A150L	A1500227 through A1500432 and A1500434 through A1500523.
(10) A150M	A1500524 through A1500734 and 15064970.

Models	Serial Nos.
(11) F150F ..	F150–0001 through F150–0067.
(12) F150G ..	F150–0068 through F150–0219.
(13) F150H ..	F150–0220 through F150–0389.
(14) F150J ...	F150–0390 through F150–0529.
(15) F150K ..	F15000530 through F15000658.
(16) F150L ..	F15000659 through F15001143.
(17) F150M	F15001144 through F15001428.
(18) FA150K	FA1500001 through FA1500081.
(19) FA150L	FA1500082 through FA1500261.
(20) FA150M	FA1500262 through FA1500336.
(21) 152	15279406 through 15286033.
(22) A152	A1520735 through A1521049, A1500433, and 681.
(23) F152	F15201429 through F15201980.
(24) FA152 ..	FA1520337 through FA1520425.

Unsafe Condition

(d) Aircraft in full conformity with type design can exceed the travel limits set by the rudder stops. We are issuing this AD to prevent the rudder from traveling past the normal travel limit. Operation in this non-certificated control position is unacceptable and could cause undesirable consequences, such as contact between the rudder and the elevator.

Compliance

(e) To address this problem, you must do either the actions in option 1 or option 2 of this AD, unless already done:

Action	Compliance	Procedures
Option 1: For all airplanes that do not have modification kits part number (P/N) SK152–25A or P/N SK152–24A installed, do the following: (i) Insert the following text into the Limitations section of the FAA-approved airplane flight manual (AFM), and pilots operating handbook (POH): “INTENTIONAL SPINS AND OTHER ACROBATIC/AEROBATIC MANEUVERS PROHIBITED PER AD 2009–10–09.” NOTE: THIS AD DOES NOT PROHIBIT PERFORMING INTENTIONAL STALLS.”. (ii) Fabricate a placard (using at least 1/8-inch letters) with the following words and install the placard on the instrument panel within the pilot’s clear view: “INTENTIONAL SPINS AND OTHER ACROBATIC/AEROBATIC MANEUVERS PROHIBITED PER AD 2009–10–09.” (iii) The AFM and POH limitations in paragraph (e)(1)(i) of the AD and the placard in paragraph (e)(1)(ii) of this AD may be removed after either paragraph (e)(2)(i) or paragraph (e)(2)(ii) of this AD is done.	Within the next 100 hours time-in-service (TIS) after June 17, 2009 (the effective date of this AD), or within the next 12 months after June 17, 2009 (the effective date of this AD), whichever occurs first.	A person authorized to perform maintenance as specified in 14 CFR section 43.3 of the Federal Aviation Administration Regulations (14 CFR 43.3) is required to make the AFM and POH changes, fabricate the placard required in paragraph (e)(1)(i) of this AD, and make an entry into the aircraft logbook showing compliance with the portion of the AD per compliance with 14 CFR 43.9.

Action	Compliance	Procedures
(2) <i>Option 2</i>: Install a rudder stop modification kit: (i) For airplanes with a forged bulkhead: (A) Replace the rudder stops, rudder stop bumpers, and attachment hardware with the new rudder stop modification kit P/N SK152-25A; and (B) Replace safety wire with jamnuts (ii) For airplanes with a sheet metal bulkhead: (A) Replace the rudder stops, rudder stop bumpers, and attachment hardware with the new rudder stop modification kit P/N SK152-24A; and (B) Replace safety wire with jamnuts	Within the next 100 hours TIS June 17, 2009 (the effective date of this AD), or within the next 12 months after June 17, 2009 (the effective date of this AD), whichever occurs first.	Follow Cessna Aircraft Company Service Bulletin SEB01-1, dated January 22, 2001; and, as applicable, either Cessna Aircraft Company Service Kit SK152-25A, Revision A, dated February 9, 2001, or Cessna Aircraft Company Service Kit SK152-24A, Revision A, dated March 9, 2001.

(f) Kit P/Ns SK152-24 and SK152-25, which are listed in SEB01-1, were superseded by kit P/Ns SK152-24A and SK152-25A. Cessna has not revised the service bulletin to reflect the new P/Ns. The kit P/Ns SK 152-24 and SK152-25 would automatically be filled with P/Ns SK152-24A and SK152-25A, respectively.

(1) The P/N SK 152-24 kit does not address the unsafe condition because the nutplate in the kit can not be used due to rivet spacing on the aft bulkhead. In addition, a note was added to kit P/N SK152-24A stating "some airplanes in this serial range may have a forged bulkhead installed after leaving the factory. Service Kit SK152-25A or later revision must be used to modify these airplanes." The kit P/N SK152-25 does not address the unsafe condition because there was an error in a washer P/N. This error was corrected in the kit P/N SK152-25A kit. Therefore, kit P/Ns SK152-24 and SK152-25 are not allowed for installation for this AD.

(2) If you previously had a kit P/N SK152-24 or SK152-25 installed and you choose to use the kit installation option, the kit P/N SK152-24A or SK152-25A, as applicable, must be installed.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, FAA, ATTN: Ann Johnson, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946-4105; fax: (316) 946-4107, has the authority to approve AMOCs for this AD, if requested using the procedures found 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) If you choose to comply with this AD using paragraph (e)(2) of this AD, you must use Cessna Aircraft Company Service Bulletin SEB01-1, dated January 22, 2001; and, as applicable, either Cessna Aircraft Company Service Kit SK152-25A, Revision

A, dated February 9, 2001; or Cessna Aircraft Company Service Kit SK152-24A, Revision A, dated March 9, 2001, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517-5800; fax: (316) 517-7271; Internet: <http://www.cessna.com>.

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Issued in Kansas City, Missouri, on May 5, 2009.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-11029 Filed 5-12-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0428; Directorate Identifier 2009-NM-053-AD; Amendment 39-15900; AD 2009-10-05]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 and 440) Airplanes

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

ACTION: Final rule; request for comments.

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

A number of Flap Actuators with P/N [part number] 601R93101-21 and 601R93101-25 were identified as having pinion gears that did not have acceptable certificates of conformance from the supplier. This condition could result in flap failure. * * *

Endurance testing conducted at Eaton Aerospace with representative discrepant gears predicted a 3,000 flight cycle life limit for the affected actuators. Fleet leaders with suspect installed actuators are rapidly approaching this threshold. Failure of the flap actuator pinion gear set could cause the right or left inboard panel to disconnect, which could result in flap asymmetry and

consequent reduced controllability of the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective May 28, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 28, 2009.

We must receive comments on this AD by June 12, 2009.

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

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

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

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT:

Christopher Alfano, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7340; fax (516) 794-5531.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF-2009-13, dated March 26, 2009, (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

A number of Flap Actuators with [part number] P/N 601R93101-21 and 601R93101-25 were identified as having pinion gears that did not have acceptable certificates of

conformance from the supplier. This condition could result in flap failure. To correct this, operators are required to replace the Inboard Flap Actuators that are non-conforming.

Endurance testing conducted at Eaton Aerospace with representative discrepant gears predicted a 3,000 flight cycle life limit for the affected actuators. Fleet leaders with suspect installed actuators are rapidly approaching this threshold. Failure of the flap actuator pinion gear set could cause the right or left inboard panel to disconnect, which could result in flap asymmetry and consequent reduced controllability of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier has issued Section 27-53-01 of the Bombardier (Canadair) Regional Jet Aircraft Maintenance Manual, CSP A-001, Revision 40, dated September 10, 2008, which provides relevant instructions for removing and replacing the subject actuators. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

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

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because this condition could result in flap failure. Failure of the flap actuator pinion gear set could cause the right or left inboard panel to disconnect, which could result in flap asymmetry and consequent reduced controllability of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2009-* * *”; Directorate Identifier 2009-NM-053-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009-10-05 Bombardier, Inc. (Formerly Canadair): Amendment 39-15900. Docket No. FAA-2009-0428; Directorate Identifier 2009-NM-053-AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 28, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model CL-600-2B19 (Regional Jet series 100 and 440) airplanes, certificated in any category, with serial numbers (S/Ns) 7003 and later, equipped with inboard flap actuators part number (P/N) 601R93101-21 (Eaton P/N 852D100-21) or P/N 601R93101-25 (Eaton P/N 852D100-25).

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight controls.

Reason

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

"A number of Flap Actuators with P/N [part number] 601R93101-21 and 601R93101-25 were identified as having pinion gears that did not have acceptable certificates of conformance from the supplier. This condition could result in flap failure. To correct this, operators are required to replace the Inboard Flap Actuators that are non-conforming."

Endurance testing conducted at Eaton Aerospace with representative discrepant gears predicted a 3,000 flight cycle life limit for the affected actuators. Fleet leaders with suspect installed actuators are rapidly approaching this threshold. Failure of the flap actuator pinion gear set could cause the right or left inboard panel to disconnect, which could result in flap asymmetry and consequent reduced controllability of the airplane.

Actions and Compliance

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

(1) Within 100 flight cycles after the effective date of this AD: Inspect the serial number of each of the flap actuators having P/N 601R93101-21 and P/N 601R93101-25 installed on the airplane. If the serial number of the inspected actuator is listed in paragraph (f)(1)(i) or (f)(1)(ii) of this AD, before further flight, replace the flap actuator with an actuator that has a serial number not listed in paragraph (f)(1)(i), (f)(1)(ii), or (f)(2) of this AD, in accordance with Section 27-53-01 of Bombardier (Canadair) Regional Jet Aircraft Maintenance Manual (AMM), CSP A-001, Revision 40, dated September 10, 2008. If any of the serial numbers found have a suffix "A," replacement is not required. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the flap actuator can be conclusively determined from that review.

(i) For P/N 601R93101-21: Serial numbers 7772, 7773, 7774, 7775, 7776, 7778, 7779, 7780, 7781, 7782, 7784, 7786, 7787, 7788, 7790, 7791, 7793, 7797, 7798, 7799, 7801, 7802, 7803, 7804, 7805, 7806, 7807, 7808, 7810, 7813, 7815, 7816, 7817, 7818, 7819, 7820, 7821, 7825, 7826, 7827, 7828, and 7829.

(ii) For P/N 601R93101-25: Serial numbers 7783 and 7796.

Note 1: Replacing an existing flap actuator P/N 601R93101-21 with a P/N 601R93101-25 that does not have a serial number listed in paragraph (f)(2) of this AD also satisfies the requirements of paragraph (f)(1) of this AD.

(2) Within 500 flight cycles after the effective date of this AD: Inspect the serial number of each of the flap actuators P/N 601R93101-25 installed on the airplane. If the serial number is 3278, 3401, 3512, 3526, 3597, 3599, 3606, 3738, 3806, 3861, 4066, 4284, 4315, 4401, 4499, 4538, 4582, 4658, 4979, 5007, 5094, 6422, 6969, or 7867, before

further flight, replace the flap actuator having P/N 601R93101-25 with a flap actuator having a serial number not identified in this paragraph or paragraph (f)(1) of this AD. Do the replacement in accordance with Section 27-53-01 of Bombardier (Canadair) Regional Jet AMM, CSP A-001, Revision 40, dated September 10, 2008. If any of the serial numbers found have a suffix "B," replacement is not required. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the flap actuator can be conclusively determined from that review.

(3) As of the effective date of this AD, replacement of a flap actuator having P/N 601R93101-21 or 601R93101-25 with a serial number identified in paragraph (f)(1)(i), (f)(1)(ii), or (f)(2) of this AD is not allowed on any airplane unless the serial number of the actuator listed in paragraph (f)(1)(i) and (f)(1)(ii) of this AD is identified with suffix "A," and the serial number of the actuator listed in paragraph (f)(2) is identified with suffix "B."

Note 2: Serial number suffix "A" or "B" indicates that a conforming gear set has been installed.

FAA AD Differences

Note 3: 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, 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: Christopher Alfano, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7340; fax (516) 794-5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(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 TCCA Canadian Airworthiness Directive CF-2009-13, dated March 26, 2009; and Bombardier (Canadair) Regional Jet

AMM, CSP A-001, Revision 40, dated September 10, 2008; for related information.

Material Incorporated by Reference

(i) You must use Section 27-53-01 of Bombardier (Canadair) Regional Jet AMM,

CSP A-001, Revision 40, dated September 10, 2008, as applicable, unless the AD specifies otherwise. Bombardier (Canadair) Regional Jet AMM, CSP A-001, Revision 40, dated September 10, 2008, contains the following effective pages:

LIST OF EFFECTIVE PAGES

Page title/ description	Page number(s)	Revision number	Date shown on page(s)
AMM Title Page	None shown	40	September 10, 2008.
Organization of Manual	1-3	None shown*	September 10, 2008.
Record of Revisions	1	40	September 10, 2008.
Chapter 27 List of Effective Pages	1-30	None shown*	September 10, 2008.
Section 27-53-01	401, 410-416	None shown*	September 10, 2008.
	402-409	None shown*	April 20, 2004.

(* The revision level of this document is specified only on the title page and Record of Revisions page.)

(1) 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>.

(2) 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.

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

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

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-11025 Filed 5-12-09; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2009-0240; Directorate Identifier 2009-CE-015-AD; Amendment 39-15899; AD 2009-10-04]

RIN 2120-AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Model DA 40 and DA 40 F 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 to supersede an existing AD. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

A case was reported where the NLG leg of a DA 40 aircraft failed in the area of the nose gear leg pivot axle. The affected airplane was mostly operated on grass runways and used for training operations. The investigation showed that the failure was due to a fatigue crack that had developed in the pivot axle. Subsequent material inspections determined that these cracks may also develop on other aircraft, depending on the type of operation.

This condition, if not detected and corrected, could lead to further cases of NLG failure, possibly causing damage to the aircraft and injuries to occupants. To address and correct this unsafe condition, ACG issued AD A-2005-005 to require repetitive inspections of the NLG leg and, in case cracks are found, replacement of the NLG leg with a serviceable unit. Since that AD was issued, Diamond Aircraft Industries developed a redesigned NLG leg which is not

affected by the cracking phenomenon addressed by AD A-2005-005.

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

DATES: This AD becomes effective June 17, 2009.

On June 17, 2009, the Director of the Federal Register approved the incorporation by reference of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008, listed in this AD.

As of September 25, 2007 (72 FR 46549, August 21, 2007), the Director of the Federal Register approved the incorporation by reference of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007, listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at 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: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; fax: (816) 329-4090; e-mail: sarjapur.nagarajan@faa.gov.

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 March 18, 2009 (74 FR 11505), and proposed to supersede AD

2007–17–06, Amendment 39–15164 (72 FR 46549, August 21, 2007). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A case was reported where the NLG leg of a DA 40 aircraft failed in the area of the nose gear leg pivot axle. The affected airplane was mostly operated on grass runways and used for training operations. The investigation showed that the failure was due to a fatigue crack that had developed in the pivot axle. Subsequent material inspections determined that these cracks may also develop on other aircraft, depending on the type of operation.

This condition, if not detected and corrected, could lead to further cases of NLG failure, possibly causing damage to the aircraft and injuries to occupants. To address and correct this unsafe condition, ACG issued AD A–2005–005 to require repetitive inspections of the NLG leg and, in case cracks are found, replacement of the NLG leg with a serviceable unit. Since that AD was issued, Diamond Aircraft Industries developed a redesigned NLG leg which is not affected by the cracking phenomenon addressed by AD A–2005–005.

For the reasons described above, this EASA AD retains the requirements of ACG AD A–2005–005, which is superseded, and excludes aircraft from the applicability that have the improved NLG leg installed.

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 FAA policies. Any such differences are highlighted in a Note within the AD.

Costs of Compliance

We estimate that this AD will affect 678 products of U.S. registry. We also

estimate that it will take about 1 work-hour 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 \$54,240 or \$80 per product.

In addition, we estimate that any necessary follow-on actions would take about 5 work-hours and require parts costing \$740, for a cost of \$1,140 per product. We have no way of determining the number of products that may need these actions.

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 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 Management Facility 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 Office (telephone (800) 647–5527) is in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

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 the NPRM, 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.

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 39–15164 (72 FR 46549, August 21, 2007), and adding the following new AD:

2009–10–04 Diamond Aircraft Industries GmbH: Amendment 39–15899; Docket No. FAA–2009–0240; Directorate Identifier 2009–CE–015–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective June 17, 2009.

Affected ADs

(b) This AD supersedes AD 2007–17–06, Amendment 39–15164.

Applicability

(c) This AD applies to the following airplanes that:

- (1) are certificated in any category; and
- (2) are not equipped with a nose landing gear (NLG) leg part number (P/N) D41–3223–10–00_1 or higher (_2_, _3_, etc.).

Model	Serial Nos. (S/N)
DA 40	All S/Ns beginning with 40.006.
DA 40F	All S/Ns beginning with 40.F001. All S/Ns beginning with 40.FC001.

Subject

(d) Air Transport Association of America (ATA) Code 32: Landing gear.

Reason

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

A case was reported where the NLG leg of a DA 40 aircraft failed in the area of the nose gear leg pivot axle. The affected airplane was mostly operated on grass runways and used for training operations. The investigation showed that the failure was due to a fatigue crack that had developed in the pivot axle. Subsequent material inspections determined that these cracks may also develop on other aircraft, depending on the type of operation.

This condition, if not detected and corrected, could lead to further cases of NLG failure, possibly causing damage to the aircraft and injuries to occupants. To address and correct this unsafe condition, ACG issued AD A-2005-005 to require repetitive inspections of the NLG leg and, in case cracks are found, replacement of the NLG leg with a serviceable unit. Since that AD was issued, Diamond Aircraft Industries developed a redesigned NLG leg which is not affected by the cracking phenomenon addressed by AD A-2005-005.

For the reasons described above, this EASA AD retains the requirements of ACG AD A-2005-005, which is superseded, and excludes aircraft from the applicability that have the improved NLG leg installed.

Actions and Compliance

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

(1) Inspect the nose landing gear (NLG) leg for cracks within the next 12 months after September 25, 2007 (the effective date retained from AD 2007-17-06), or within the next 200 hours time-in-service (TIS) after September 25, 2007 (the effective date retained from AD 2007-17-06), whichever occurs later. Do the inspection following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007, or Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008.

(2) If any cracks are found during the inspection required in paragraph (f)(1) of the AD or during any inspection required in paragraph (f)(2)(ii) or (f)(3) of this AD, replace the NLG leg before further flight. Do the replacement following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007; or Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008.

(i) Replacing a NLG leg with a part number (P/N) D41-3223-10-00_1 or higher (2, 3, etc.) terminates the repetitive inspections required in this AD.

(ii) Replacing a NLG leg with a P/N D41-3223-10-00 requires repetitive inspections as specified in paragraph (f)(3) of this AD until a P/N D41-3223-10-00_1 or higher (2, 3, etc.) is installed.

(3) If no cracks are found during the inspection required in paragraph (f)(1) of this AD or a cracked NLG leg is replaced with a P/N D41-3223-10-00 NLG leg, repetitively inspect thereafter at intervals not to exceed

12 months or 200 hours TIS, whichever occurs later, until a P/N D41-3223-10-00_1 or higher (2, 3, etc.) is installed. Do these repetitive inspections following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008.

(i) If a repetitive inspection occurs before June 17, 2009 (the effective date of this AD), then you may use Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007.

(ii) All inspections that occur after June 17, 2009 (the effective date of this AD), must be done following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008.

(4) After installing a P/N D41-3223-10-00_1 or higher (2, 3, etc.) as a replacement part, installing a NLG leg P/N D41-3223-10-00 is no longer allowed.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards 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: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; fax: (816) 329-4090. 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 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2009-0016, dated January 22, 2009; Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007; and Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008, for related information.

Material Incorporated by Reference

(i) You must use Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007; and Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On September 25, 2007 (72 FR 46549, August 21, 2007), the Director of the Federal Register previously approved the incorporation by reference of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007.

(3) For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Strabe 5, A-2700 Wiener Neustadt; fax: 43-2622-26620; or e-mail: support@diamond-air.at.

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

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

Issued in Kansas City, Missouri, on May 1, 2009.

Scott A. Horn,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-10652 Filed 5-12-09; 8:45 am]

BILLING CODE 4910-13-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[EPA-RO4-OAR-2008-0904; FRL-8893-7]

Amendment to Requirements for Providing Information on the Delegation of the Administrator's Authorities and Responsibilities for Certain States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to section 112(l) of the Clean Air Act, States with approved

programs may take delegation of the Administrator's authorities and responsibilities to implement and enforce the emission standards and other requirements for hazardous air pollutants subject to this section. The delegation status of each State is published in the rules implementing section 112(l). EPA is taking this action to accomplish the following: correct a sequential numbering error in regulations that failed to reserve space for the alphabetical listing of the State of Florida; reserve space for the State of Florida; and, add delegation information for the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina.

DATES: This direct final rule is effective *July 13, 2009* without further notice, unless EPA receives adverse comment by June 12, 2009. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-RO4-OAR-2008-0904 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: page.lee@epa.gov.
3. *Fax*: 404-562-9095
4. *Mail*: "EPA-RO4-OAR-2008-0904", Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier*: Lee Page, Air Toxics and Monitoring Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-RO4-OAR-2008-0904. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 through *www.regulations.gov* or e-mail,

information that you consider to be CBI or otherwise protected. The *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 *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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Lee Page, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring 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) 562-9131.

Mr. Page can also be reached via electronic mail at page.lee@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Clean Air Act (CAA) provides that each State may develop and submit to EPA for approval a program for the implementation and enforcement of emission standards and other requirements for hazardous air pollutants. Consistent with Section 112(l), EPA has promulgated regulations, at 40 CFR 63.90-63.99, that establish procedures for the approval of such State programs, including procedures for any partial or complete delegation of EPA's authority. The delegation status of each State is listed in 40 CFR 63.99.

II. Discussion

All eight Region 4 States (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee) have approved programs under section 112(l) of the CAA for taking delegation of Part 63 regulations. Section 112(l) program approvals were components of each State's Title V permitting program approval and can be found in the following **Federal Registers**: October 29, 2001 for Alabama; October 1, 2001, for Florida; June 8, 2000, for Georgia; October 31, 2001, for Kentucky; December 28, 1994, for Mississippi; August 31, 2001, for North Carolina; June 26, 1995, for South Carolina; and March 20, 2001, for Tennessee.

The approved Part 63 delegation mechanism for the States of Alabama, Florida, Georgia, Kentucky, and Mississippi is a process commonly described as "adopt by reference" in which formal delegation of federal rules occurs when the State rulemaking process to adopt a federal rule by reference is complete. The approved Part 63 delegation mechanism for the States of North Carolina, South Carolina and Tennessee is a process commonly described as "automatic delegation" in which formal delegation of federal rules occurs without the need for completing specific State rulemaking actions for taking delegation and is automatically completed on the promulgation date of each Part 63 regulation.

The purpose of today's action is to identify the specific Part 63 delegations that have been previously completed for seven States: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina and South Carolina. In addition, corrections are being made to the sequential numbering in order to maintain the list of State delegation information in alphabetical order and to

provide space for delegation information on the State of Florida.

III. Final Action

This rule amends 40 CFR 63.99 to add CAA Section 112(l) delegation information for the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina. This action also corrects sequential numbering in 40 CFR 63.99. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for this rule should adverse comments be filed. This rule will be effective July 13, 2009 without further notice unless the Agency receives adverse comments by June 12, 2009.

If the EPA receives such comments, then EPA will publish a document withdrawing the direct final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 13, 2009 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a section 112(l) delegation request that complies with the provisions of the Act and applicable Federal regulations. Thus, in reviewing section 112(l) submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely identifies previous EPA approved State delegation requests under section 112(l) and makes a correction to sequential numbering in the regulations and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the action is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 3, 2009.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Title 40, chapter I, part 63 of the *Code of Federal Regulations* is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

■ 2. Section 63.99 is amended as follows:

■ a. By adding paragraph (a)(1)(i).

■ b. By redesignating paragraphs (a)(10) through (a)(48) as paragraphs (a)(11) through (a)(49), respectively.

■ c. By adding a new paragraph (a)(10).

■ d. By adding a new paragraph (a)(11)(i) to newly designated paragraph (a)(11).

■ e. By adding a new paragraph (a)(18).

■ f. In newly designated paragraph (a)(20)(iii) introductory text by removing the reference "(a)(19)(iii)(A)" and adding in its place the reference "(a)(20)(iii)(A)".

■ g. In newly designated paragraph (a)(22)(ii) introductory text by removing

the reference “(a)(21)(ii)(A)” and adding in its place the reference “(a)(22)(ii)(A)”.

■ h. By adding a new paragraph (a)(25).

■ i. In newly designated paragraph (a)(30)(iv) introductory text by removing the reference “(a)(29)(iii)” and adding in its place the reference “(a)(30)(iii)”.

■ j. In newly designated paragraph (a)(30)(iv)(A) introductory text by removing the reference “(a)(29)(iii)” and adding in its place the reference “(a)(30)(iii)”.

■ k. In newly designated paragraph (a)(31)(i) introductory text by removing the reference “(a)(30)(i)(A)” and adding in its place the reference “(a)(31)(i)(A)”.

■ l. By adding a new paragraph (a)(34)(i) to newly designated paragraph (a)(34).

■ m. By adding paragraph (a)(41)(i).

■ n. In newly designated paragraph (a)(48)(i) table footnote number 7 text by removing the reference “(a)(47)(ii)” and adding in its place the reference “(a)(48)(ii)”.

■ o. In the newly designated paragraph (a)(48) in “Note to paragraph (a)(47)” by removing the reference “(a)(47)” and adding in its place the reference “(a)(48)”.

§ 63.99 Delegated Federal authorities.

(a) * * *

(1) * * *

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Alabama Department of Environmental Management for all sources. The “X” symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards.

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—ALABAMA ¹

	Source category	Subpart	ADEM ²	JCDH ³	HDNR ⁴
1	HON	F, G, H, I	X	X	X
2	Polyvinyl Chloride & Co-polymers, VACATED on 5/11/05.	J			
3	Coke Ovens	L	X	X	X
4	Dry Cleaners	M	X	X	X
5	Chromium Electroplating	N	X	X	X
6	EtO Commercial Sterilization	O	X	X	X
7	Chromium Cooling Towers	Q	X	X	X
8	Gasoline Distribution (stage 1)	R	X	X	X
9	Pulp & Paper I	S	X	X	X
10	Halogenated Solvent Cleaning	T	X	X	X
11	Polymer & Resins 1	U	X	X	X
12	Polymer & Resins 2	W	X	X	X
13	Secondary Lead Smelters	X	X	X	X
14	Marine Tank Vessel Loading	Y	X	X	
15	Phosphoric Acid Mfg	AA	X	X	X
16	Phosphate Fertilizers Prod	BB	X	X	X
17	Petroleum Refineries	CC	X	X	X
18	Offsite Waste & Recovery	DD	X	X	X
	Tanks; Level 1	OO	X	X	X
	Containers	PP	X	X	X
	Surface Impoundments	QQ	X	X	X
	Drain Systems	RR	X	X	X
	Oil-Water Separators	VV	X	X	X
19	Magnetic Tape	EE	X	X	X
20	Aerospace Industry	GG	X	X	X
21	Oil & Natural Gas Prod	HH	X	X	X
	Area Source Requirements >>.				
22	Shipbuilding and Repair	II	X	X	X
23	Wood Furniture Mfg	JJ	X	X	X
24	Printing & Publishing	KK	X	X	X
25	Primary Aluminum	LL			
26	Pulp & Paper II (Combustion sources)	MM	X	X	X
27	Generic MACT:				
	Control Devices	SS	X	X	X
	Eq. Leaks—Level 1	TT	X	X	X
	Eq. Leaks—Level 2	UU	X	X	X
	Tanks—Level 2	WW	X	X	X
28	Generic MACT:				
	Ethylene Mfg	XX & YY	X	X	X
	Carbon Black	YY	X	X	X
	Spandex Prod	YY	X	X	X
	Cyanide Chemical Mfg	YY	X	X	X
	Acetal Resins	YY	X	X	X
	Acrylic/Modacrylic Fibers	YY	X	X	X
	Hydrogen Fluoride Prod	YY	X	X	X
	Polycarbonates Prod	YY	X	X	X
29	Steel Pickeling	CCC	X	X	X
30	Mineral Wool Prod	DDD	X	X	X
31	Hazardous Waste Combustion (Phase I)	EEE	X	X	X
32	Boilers that burn Haz. Waste (Phase II)	EEE	X	X	X
33	HCL Prod. Furnaces burning Haz. Waste (P II) ...	EEE	X	X	X
34	Pharmaceutical Prod	GGG	X	X	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—ALABAMA¹—Continued

	Source category	Subpart	ADEM ²	JCDH ³	HDNR ⁴
35	Nat. Gas Transmission & Storage	HHH	X	X	X
36	Flexible Polyurethane Foam Prod	III	X	X	X
37	Polymer & Resins 4	JJJ	X	X	X
38	Portland Cement	LLL	X	X	X
39	Pesticide Active Ingredients	MMM	X	X	X
40	Wool Fiberglass	NNN	X	X	X
41	Polymer & Resins 3 (Amino & Phenolic)	OOO	X	X	X
42	Polyether Polyols Prod	PPP	X	X	X
43	Primary Copper	QQQ			X
44	Secondary Aluminum Prod	RRR	X	X	X
45	Primary Lead Smelting	TTT			
46	Petro Refineries (FCC units)	UUU	X	X	X
47	POTW	VVV	X	X	X
48	Ferroalloys	XXX	X	X	X
49	Municipal Landfills	AAAA	X	X	X
50	Nutritional Yeast	CCCC	X	X	X
51	Plywood and Composite Wood Prod. (Partial Vacatur Oct. 07).	DDDD	X	X	X
52	Organic Liquids Distribution (non-gas)	EEEE	X	X	X
53	Misc. Organic NESHAP	FFFF	X	X	X
54	Vegetable Oil	GGGG	X	X	X
55	Wet Formed Fiberglass	HHHH	X	X	X
56	Auto & Light Duty Truck (coating)	IIII	X	X	X
57	Paper & Other Webs	JJJJ	X	X	X
58	Metal Can (coating)	KKKK	X	X	X
59	Misc. Metal Parts (coating)	MMMM	X	X	X
60	Large Appliances (coating)	NNNN	X	X	X
61	Printing, Coating, & Dyeing Fabrics	OOOO	X	X	X
62	Plastic Parts & Products (coating)	PPPP	X	X	X
63	Wood Building Products	QQQQ	X	X	X
64	Metal Furniture (coating)	RRRR	X	X	X
65	Metal Coil (coating)	SSSS	X	X	X
66	Leather Tanning & Finishing	TTTT			X
67	Cellulose Ethers Prod. Misc. Viscose Processes	UUUU			X
68	Boat Manufacturing	VVVV	X	X	X
69	Reinforced Plastic Composites	WWWW	X	X	X
70	Rubber Tire Mfg	XXXX	X	X	X
71	Stationary Combustion Turbines	YYYY	X	X	X
72	Reciprocating Int. Combustion Engines	ZZZZ	X	X	X
	Area Source Requirements >>.				
73	Lime Manufacturing	AAAAA	X	X	X
74	Semiconductor Production	BBBBB	X	X	X
75	Coke Ovens: (Push/Quench/Battery/Stacks)	CCCCC	X	X	X
76	Industrial/Commercial/Institutional Boilers & Process Heaters, VACATED on 7/30/07.	DDDDD			
77	Iron Foundries	EEEEE	X	X	X
78	Integrated Iron & Steel	FFFFF	X	X	X
79	Site Remediation	GGGGG	X	X	X
80	Misc. Coating Manufacturing	HHHHH	X	X	X
81	Mercury Cell Chlor-Alkali	IIIII	X	X	X
82	Brick & Structural Clay Products, VACATED on 6/18/07.	JJJJJ			
83	Clay Ceramics Manufacturing, VACATED on 6/18/07.	KKKKK			
84	Asphalt Roofing & Processing	LLLLL	X	X	X
85	Flex. Polyurethane Foam Fabrication	MMMMM			X
86	Hydrochloric Acid Prod/Fumed Silica	NNNNN	X	X	X
87	Engine & Rocket Test Facilities	PPPPP	X	X	X
88	Friction Materials Manufacturing	QQQQQ	X	X	X
89	Taconite Iron Ore	RRRRR	X	X	X
90	Refractories	SSSSS			X
91	Primary Magnesium	TTTTT	X	X	X

Area Source Rules

92	Hospital Sterilizers	WWWWW			
93	Stainless and Nonstainless Steel Mfg. Electric Arc Furnaces.	YYYYY			
94	Iron & Steel foundries	ZZZZZ			
95	Gasoline Distribution—Bulk	BBBBBB			
96	Gasoline Dispensing Facilities	CCCCCC			
97	PVC & Copolymers Prod	DDDDDD	X	X	

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—ALABAMA¹—Continued

	Source category	Subpart	ADEM ²	JCDH ³	HDNR ⁴
98	Primary Copper	EEEEEE	X	X	
99	Secondary Copper Smelting	FFFFFF	X	X	
100	Primary Nonferrous Metals	GGGGGG	X	X	
101	Paint Stripping	HHHHHH			
	Auto-Body Refinishing.				
	Plastic Parts & Prod. (coating).				
102	Acrylic/Modacrylic Fibers Prod	LLLLLL			
103	Carbon Black Prod	MMMMMM			
104	Chemical Mfg. Chrom	NNNNNN			
105	Flex. Polyurethane Foam Fab	OOOOOO			
	Flex. Polyurethane Foam Prod.				
106	Lead Acid Battery Mfg	PPPPPP			
107	Wood Preserving	QQQQQQ			
108	Clay Ceramics Mfg	RRRRRR			
109	Glass Mfg	SSSSSS			
110	Secondary Nonferrous Metals	TTTTTT			
110	Plating and Polishing	WWWWWW			
112	Industrial Mach. & Eq. Finishing	XXXXXX			
	Elect. & Electronics Eq. Finishing.				
	Fabricated Metal Prod.				
	Fabricated Plate Work (Boiler Shop).				
	Fabricated Structural Metal Mfg.				
	Heating Eq. Mfg.				
	Iron and Steel Forging.				
	Primary Metals Prod. Mfg.				
	Valves and Pipe Fittings Mfg.				
113	Ferroalloys Production	YYYYYY			
	Ferro/Silico Manganese.				

¹ State program approved on October 29, 2001. Table last updated on October 5, 2008.² Alabama Department of Environmental Management.³ Jefferson County Department of Health.⁴ Huntsville Department of Natural Resources.

* * * * *

(10) *Florida*.

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Florida Department of Environmental Protection

(FDEP) for all sources. The “X” symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, and

determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards.

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—FLORIDA¹

	Source category	Subpart	FDEP
1	HON	F, G, H, I	X
2	Polyvinyl Chloride & Co-polymers VACATED on 5/11/05	J	X
3	Coke Ovens	L	X
4	Dry Cleaners	M	X
5	Chromium Electroplating	N	X
6	EtO Commercial Sterilization	O	X
7	Chromium Cooling Towers	Q	X
8	Gasoline Distribution (stage 1)	R	X
9	Pulp & Paper I	S	X
10	Halogenated Solvent Cleaning	T	X
11	Polymer & Resins 1	U	X
12	Polymer & Resins 2	W	X
13	Secondary Lead Smelters	X	X
14	Marine Tank Vessel Loading	Y	X
15	Phosphoric Acid Mfg	AA	X
16	Phosphate Fertilizers Prod	BB	X
17	Petroleum Refineries	CC	X
18	Offsite Waste & Recovery	DD	X
	Tanks; Level 1	OO	X
	Containers	PP	X
	Surface Impoundments	QQ	X
	Drain Systems	RR	X
	Oil-Water Separators	VV	X
19	Magnetic Tape	EE	X
20	Aerospace Industry	GG	X
21	Oil & Natural Gas Prod	HH	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—FLORIDA¹—Continued

	Source category	Subpart	FDEP
	Area Source Requirements >>.		
22	Shipbuilding and Repair	II	X
23	Wood Furniture Mfg	JJ	X
24	Printing & Publishing	KK	X
25	Primary Aluminum	LL	X
26	Pulp & Paper II (Combustion sources)	MM	X
27	Generic MACT:		
	Control Devices	SS	X
	Eq. Leaks—Level 1	TT	X
	Eq. Leaks—Level 2	UU	X
	Tanks—Level 2	WW	X
28	Generic MACT:		
	Ethylene Mfg	XX & YY	X
	Carbon Black	YY	X
	Spandex Prod	YY	X
	Cyanide Chemical Mfg	YY	X
	Acetal Resins	YY	X
	Acrylic/Modacrylic Fibers	YY	X
	Hydrogen Fluoride Prod	YY	X
	Polycarbonates Prod	YY	X
29	Steel Pickeling	CCC	X
30	Mineral Wool Prod	DDD	X
31	Hazardous Waste Combustion (Phase I)	EEE	X
32	Boilers that burn Haz. Waste (Phase II)	EEE	X
33	HCL Prod. Furnaces burning Haz. Waste (P II)	EEE	X
34	Pharmaceutical Prod	GGG	X
35	Nat. Gas Transmission & Storage	HHH	X
36	Flexible Polyurethane Foam Prod	III	X
37	Polymer & Resins 4	JJJ	X
38	Portland Cement	LLL	X
39	Pesticide Active Ingredients	MMM	X
40	Wool Fiberglass	NNN	X
41	Polymer & Resins 3 (Amino & Phenolic)	OOO	X
42	Polyether Polyols Prod	PPP	X
43	Primary Copper	QQQ	X
44	Secondary Aluminum Prod	RRR	X
45	Primary Lead Smelting	TTT	X
46	Petro Refineries (FCC units)	UUU	X
47	POTW	VVV	X
48	Ferroalloys	XXX	X
49	Municipal Landfills	AAAA	X
50	Nutritional Yeast	CCCC	X
51	Plywood and Composite Wood Prod. (Partial Vacatur Oct. 07)	DDDD	X
52	Organic Liquids Distribution (non-gas)	EEEE	X
53	Misc. Organic NESHAP	FFFF	X
54	Vegetable Oil	GGGG	X
55	Wet Formed Fiberglass	HHHH	X
56	Auto & Light Duty Truck (coating)	IIII	X
57	Paper & Other Webs	JJJJ	X
58	Metal Can (coating)	KKKK	X
59	Misc. Metal Parts (coating)	MMMM	X
60	Large Appliances (coating)	NNNN	X
61	Printing, Coating, & Dyeing Fabrics	OOOO	X
62	Plastic Parts & Products (coating)	PPPP	X
63	Wood Building Products	QQQQ	X
64	Metal Furniture (coating)	RRRR	X
65	Metal Coil (coating)	SSSS	X
66	Leather Tanning & Finishing	TTTT	X
67	Cellulose Ethers Prod. Misc. Viscose Processes	UUUU	X
68	Boat Manufacturing	VVVV	X
69	Reinforced Plastic Composites	WWWW	X
70	Rubber Tire Mfg	XXXX	X
71	Stationary Combustion Turbines	YYYY	X
72	Reciprocating Int. Combustion Engines	ZZZZ	X
	Area Source Requirements >>.		
73	Lime Manufacturing	AAAAA	X
74	Semiconductor Production	BBBBB	X
75	Coke Ovens: (Push/Quench/Battery/Stacks)	CCCCC	X
76	Industrial/Commercial/Institutional Boilers & Process Heaters, VACATED on 7/30/07	DDDDD	X
77	Iron Foundries	EEEEE	X
78	Integrated Iron & Steel	FFFFF	X
79	Site Remediation	GGGGG	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—FLORIDA¹—Continued

	Source category	Subpart	FDEP
80	Misc. Coating Manufacturing	HHHHH	X
81	Mercury Cell Chlor-Alkali	IIIII	X
82	Brick & Structural Clay Products, VACATED on 6/18/07	JJJJJ	X
83	Clay Ceramics Manufacturing, VACATED on 6/18/07	KKKKK	X
84	Asphalt Roofing & Processing	LLLLL	X
85	Flex. Polyurethane Foam Fabrication	MMMMM	X
86	Hydrochloric Acid Prod/Fumed Silica	NNNNN	X
87	Engine & Rocket Test Facilities	PPPPP	X
88	Friction Materials Manufacturing	QQQQQ	X
89	Taconite Iron Ore	RRRRR	X
90	Refractories	SSSSS	X
91	Primary Magnesium	TTTTT	X
Area Source Rules			
92	Hospital Sterilizers	WWWWW	
93	Stainless and Nonstainless Steel Mfg. Electric Arc Furnaces	YYYYY	X
94	Iron & Steel foundries	ZZZZZ	X
95	Gasoline Distribution—Bulk	BBBBBB	
96	Gasoline Dispensing Facilities	CCCCC	
97	PVC & Copolymers Prod	DDDDDD	X
98	Primary Copper	EEEEEE	X
99	Secondary Copper Smelting	FFFFFF	X
100	Primary Nonferrous Metals	GGGGGG	X
101	Paint Stripping	HHHHHH	
	Auto-Body Refinishing.		
	Plastic Parts & Prod. (coating).		
102	Acrylic/Modacrylic Fibers Prod	LLLLLL	X
103	Carbon Black Prod	MMMMMM	X
104	Chemical Mfg. Chrom	NNNNNN	X
105	Flex. Polyurethane Foam Fab	OOOOOO	X
	Flex. Polyurethane Foam Prod.		
106	Lead Acid Battery Mfg	PPPPPP	X
107	Wood Preserving	QQQQQQ	X
108	Clay Ceramics Mfg	RRRRRR	X
109	Glass Mfg	SSSSSS	X
110	Secondary Nonferrous Metals	TTTTTT	X
110	Plating and Polishing	WWWWWW	
112	Industrial Mach. & Eq. Finishing	XXXXXX	
	Elect. & Electronics Eq. Finishing.		
	Fabricated Metal Prod.		
	Fabricated Plate Work (Boiler Shop).		
	Fabricated Structural Metal Mfg.		
	Heating Eq. Mfg.		
	Iron and Steel Forging.		
	Primary Metals Prod. Mfg.		
	Valves and Pipe Fittings Mfg.		
113	Ferroalloys Production	YYYYYY	
	Ferro/Silico Manganese.		

¹ State program approved on October 1, 2001. Delegation table last updated on December 19, 2008.

(ii) [Reserved]

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(11) * * *

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the

Georgia Environmental Protection Division (GEPD) for all sources. The “X” symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law,

regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards.

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—GEORGIA¹

	Source category	Subpart	GEPD
1	HON	F, G, H, I	X
2	Polyvinyl Chloride & Co-polymers VACATED on 5/11/05	J	X
3	Coke Ovens	L	X
4	Dry Cleaners	M	X
5	Chromium Electroplating	N	X
6	EtO Commercial Sterilization	O	X
7	Chromium Cooling Towers	Q	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—GEORGIA¹—Continued

	Source category	Subpart	GEPD
8	Gasoline Distribution (stage 1)	R	X
9	Pulp & Paper I	S	X
10	Halogenated Solvent Cleaning	T	X
11	Polymer & Resins 1	U	X
12	Polymer & Resins 2	W	X
13	Secondary Lead Smelters	X	X
14	Marine Tank Vessel Loading	Y	X
15	Phosphoric Acid Mfg	AA	X
16	Phosphate Fertilizers Prod	BB	X
17	Petroleum Refineries	CC	X
18	Offsite Waste & Recovery	DD	X
	Tanks; Level 1	OO	X
	Containers	PP	X
	Surface Impoundments	QQ	X
	Drain Systems	RR	X
	Oil-Water Separators	VV	X
19	Magnetic Tape	EE	X
20	Aerospace Industry	GG	X
21	Oil & Natural Gas Prod	HH	X
	Area Source Requirements >>.		
22	Shipbuilding and Repair	II	X
23	Wood Furniture Mfg	JJ	X
24	Printing & Publishing	KK	X
25	Primary Aluminum	LL	
26	Pulp & Paper II (Combustion sources)	MM	X
27	Generic MACT:		
	Control Devices	SS	X
	Eq. Leaks—Level 1	TT	X
	Eq. Leaks—Level 2	UU	X
	Tanks—Level 2	WW	X
28	Generic MACT:		
	Ethylene Mfg	XX & YY	X
	Carbon Black	YY	X
	Spandex Prod	YY	X
	Cyanide Chemical Mfg	YY	X
	Acetal Resins	YY	X
	Acrylic/Modacrylic Fibers	YY	X
	Hydrogen Fluoride Prod	YY	X
	Polycarbonates Prod	YY	X
29	Steel Pickeling	CCC	X
30	Mineral Wool Prod	DDD	X
31	Hazardous Waste Combustion (Phase I)	EEE	X
32	Boilers that burn Haz. Waste (Phase II)	EEE	X
33	HCL Prod. Furnaces burning Haz. Waste (P II)	EEE	X
34	Pharmaceutical Prod	GGG	X
35	Nat. Gas Transmission & Storage	HHH	X
36	Flexible Polyurethane Foam Prod	III	X
37	Polymer & Resins 4	JJJ	X
38	Portland Cement	LLL	X
39	Pesticide Active Ingredients	MMM	X
40	Wool Fiberglass	NNN	X
41	Polymer & Resins 3 (Amino & Phenolic)	OOO	X
42	Polyether Polyols Prod	PPP	X
43	Primary Copper	QQQ	X
44	Secondary Aluminum Prod	RRR	X
45	Primary Lead Smelting	TTT	X
46	Petro Refineries (FCC units)	UUU	X
47	POTW	VVV	X
48	Ferroalloys	XXX	X
49	Municipal Landfills	AAAA	X
50	Nutritional Yeast	CCCC	X
51	Plywood and Composite Wood Prod. (Partial Vacatur Oct. 07)	DDDD	X
52	Organic Liquids Distribution (non-gas)	EEEE	X
53	Misc. Organic NESHAP	FFFF	X
54	Vegetable Oil	GGGG	X
55	Wet Formed Fiberglass	HHHH	X
56	Auto & Light Duty Truck (coating)	IIII	X
57	Paper & Other Webs	JJJJ	X
58	Metal Can (coating)	KKKK	X
59	Misc. Metal Parts (coating)	MMMM	X
60	Large Appliances (coating)	NNNN	X
61	Printing, Coating, & Dyeing Fabrics	OOOO	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—GEORGIA¹—Continued

	Source category	Subpart	GEPD
62	Plastic Parts & Products (coating)	PPPP	X
63	Wood Building Products	QQQQ	X
64	Metal Furniture (coating)	RRRR	X
65	Metal Coil (coating)	S S S S	X
66	Leather Tanning & Finishing	TTTT	X
67	Cellulose Ethers Prod. Misc. Viscose Processes	UUUU	X
68	Boat Manufacturing	VVVV	X
69	Reinforced Plastic Composites	WWWW	X
70	Rubber Tire Mfg	XXXX	X
71	Stationary Combustion Turbines	YYYY	X
72	Reciprocating Int. Combustion Engines	ZZZZ	X
	Area Source Requirements >>.		
73	Lime Manufacturing	AAAAA	X
74	Semiconductor Production	BBBBB	X
75	Coke Ovens: (Push/Quench/Battery/Stacks)	CCCCC	X
76	Industrial/Commercial/Institutional Boilers & Process Heaters, VACATED on 7/30/07	DDDDD	
77	Iron Foundries	EEEEE	X
78	Integrated Iron & Steel	FFFFF	X
79	Site Remediation	GGGGG	X
80	Misc. Coating Manufacturing	HHHHH	X
81	Mercury Cell Chlor-Alkali	IIIII	X
82	Brick & Structural Clay Products, VACATED on 6/18/07	JJJJJ	
83	Clay Ceramics Manufacturing, VACATED on 6/18/07	KKKKK	
84	Asphalt Roofing & Processing	LLLLL	X
85	Flex. Polyurethane Foam Fabrication	MMMMM	X
86	Hydrochloric Acid Prod/Fumed Silica	NNNNN	X
87	Engine & Rocket Test Facilities	PPPPP	X
88	Friction Materials Manufacturing	QQQQQ	X
89	Taconite Iron Ore	RRRRR	X
90	Refractories	SSSSS	X
91	Primary Magnesium	TTTTT	X

Area Source Rules

92	Hospital Sterilizers	WWWWW	
93	Stainless and Nonstainless Steel Mfg. Electric Arc Furnaces	YYYYY	
94	Iron & Steel foundries	ZZZZZ	
95	Gasoline Distribution—Bulk	BBBBBB	
96	Gasoline Dispensing Facilities	CCCCC	
97	PVC & Copolymers Prod	DDDDDD	
98	Primary Copper	EEEEEE	
99	Secondary Copper Smelting	FFFFFF	
100	Primary Nonferrous Metals	GGGGGG	
	Paint Stripping.		
101	Auto-Body Refinishing	HHHHHH	
	Plastic Parts & Prod. (coating).		
102	Acrylic/Modacrylic Fibers Prod	LLLLLL	
103	Carbon Black Prod	MMMMMM	
104	Chemical Mfg. Chrom	NNNNNN	
	Flex. Polyurethane Foam Fab.		
105	Flex. Polyurethane Foam Prod	OOOOOO	
106	Lead Acid Battery Mfg	PPPPPP	
107	Wood Preserving	QQQQQQ	
108	Clay Ceramics Mfg	RRRRRR	
109	Glass Mfg	SSSSSS	
110	Secondary Nonferrous Metals	TTTTTT	
110	Plating and Polishing	WWWWWW	
112	Industrial Mach. & Eq. Finishing	XXXXXX	
	Elect. & Electronics Eq. Finishing.		
	Fabricated Metal Prod.		
	Fabricated Plate Work (Boiler Shop).		
	Fabricated Structural Metal Mfg.		
	Heating Eq. Mfg.		
	Iron and Steel Forging.		
	Primary Metals Prod. Mfg.		
	Valves and Pipe Fittings Mfg.		
113	Ferroalloys Production	YYYYYY	
	Ferro/Silico Manganese.		

¹ State program approved on June 8, 2000. Delegation table last updated on September 15, 2008.

* * * * *

(18) *Kentucky*.

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the Kentucky Department of Environmental

Protection for all sources. The "X" symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy, guidance, and

determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards.

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—KENTUCKY ¹

	Source category	Subpart	KDEP ²	LAPCD ³
1	HON	F, G, H, I	X	X
2	Polyvinyl Chloride & Co-polymers VACATED on 5/11/05	J		
3	Coke Ovens	L	X	X
4	Dry Cleaners	M	X	X
5	Chromium Electroplating	N	X	X
6	EtO Commercial Sterilization	O	X	X
7	Chromium Cooling Towers	Q	X	X
8	Gasoline Distribution (stage 1)	R	X	X
9	Pulp & Paper I	S	X	X
10	Halogenated Solvent Cleaning	T	X	X
11	Polymer & Resins 1	U	X	X
12	Polymer & Resins 2	W	X	X
13	Secondary Lead Smelters	X	X	X
14	Marine Tank Vessel Loading	Y	X	X
15	Phosphoric Acid Mfg	AA	X	X
16	Phosphate Fertilizers Prod	BB	X	X
17	Petroleum Refineries	CC	X	X
18	Offsite Waste & Recovery	DD	X	X
	Tanks; Level 1	OO	X	X
	Containers	PP	X	X
	Surface Impoundments	QQ	X	X
	Drain Systems	RR	X	X
	Oil-Water Separators	VV	X	X
19	Magnetic Tape	EE	X	X
20	Aerospace Industry	GG	X	X
21	Oil & Natural Gas Prod	HH	X	X
	Area Source Requirements >>.	X		
22	Shipbuilding and Repair	II	X	X
23	Wood Furniture Mfg	JJ	X	X
24	Printing & Publishing	KK	X	X
25	Primary Aluminum	LL	X	
26	Pulp & Paper II (Combustion sources)	MM	X	X
27	Generic MACT:			
	Control Devices	SS	X	X
	Eq. Leaks—Level 1	TT	X	X
	Eq. Leaks—Level 2	UU	X	X
	Tanks—Level 2	WW	X	X
28	Generic MACT:			
	Ethylene Mfg	XX & YY	X	X
	Carbon Black	YY	X	X
	Spandex Prod	YY	X	X
	Cyanide Chemical Mfg	YY	X	X
	Acetal Resins	YY	X	X
	Acrylic/Modacrylic Fibers	YY	X	X
	Hydrogen Fluoride Prod	YY	X	X
	Polycarbonates Prod	YY	X	X
29	Steel Pickling	CCC	X	X
30	Mineral Wool Prod	DDD	X	X
31	Hazardous Waste Combustion (Phase I)	EEE	X	X
32	Boilers that burn Haz. Waste (Phase II)	EEE	X	X
33	HCL Prod. Furnaces burning Haz. Waste (P II)	EEE	X	X
34	Pharmaceutical Prod	GGG	X	X
35	Nat. Gas Transmission & Storage	HHH	X	X
36	Flexible Polyurethane Foam Prod	III	X	X
37	Polymer & Resins 4	JJJ	X	X
38	Portland Cement	LLL	X	X
39	Pesticide Active Ingredients	MMM	X	X
40	Wool Fiberglass	NNN	X	X
41	Polymer & Resins 3 (Amino & Phenolic)	OOO	X	X
42	Polyether Polyols Prod	PPP	X	X
43	Primary Copper	QQQ	X	X
44	Secondary Aluminum Prod	RRR	X	X
45	Primary Lead Smelting	TTT	X	
46	Petro Refineries (FCC units)	UUU	X	X
47	POTW	VVV	X	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—KENTUCKY¹—Continued

	Source category	Subpart	KDEP ²	LAPCD ³
48	Ferroalloys	XXX	X	X
49	Municipal Landfills	AAAA	X	X
50	Nutritional Yeast	CCCC	X	X
51	Plywood and Composite Wood Prod. (Partial Vacatur Oct. 07)	DDDD	X	X
52	Organic Liquids Distribution (non-gas)	EEEE	X	X
53	Misc. Organic NESHAP	FFFF	X	X
54	Vegetable Oil	GGGG	X	X
55	Wet Formed Fiberglass	HHHH	X	X
56	Auto & Light Duty Truck (coating)	IIII	X	X
57	Paper & Other Webs	JJJJ	X	X
58	Metal Can (coating)	KKKK	X	X
59	Misc. Metal Parts (coating)	MMMM	X	X
60	Large Appliances (coating)	NNNN	X	X
61	Printing, Coating, & Dyeing Fabrics	OOOO	X	X
62	Plastic Parts & Products (coating)	PPPP	X	X
63	Wood Building Products	QQQQ	X	X
64	Metal Furniture (coating)	RRRR	X	X
65	Metal Coil (coating)	SSSS	X	X
66	Leather Tanning & Finishing	TTTT	X	X
67	Cellulose Ethers Prod. Misc. Viscose Processes	UUUU	X	X
68	Boat Manufacturing	VVVV	X	X
69	Reinforced Plastic Composites	WWWW	X	X
70	Rubber Tire Mfg	XXXX	X	X
71	Stationary Combustion Turbines	YYYY	X	X
72	Reciprocating Int. Combustion Engines	ZZZZ	X	X
	Area Source Requirements >>.	X		
73	Lime Manufacturing	AAAAA	X	X
74	Semiconductor Production	BBBBB	X	X
75	Coke Ovens: (Push/Quench/Battery/Stacks)	CCCCC	X	X
76	Industrial/Commercial/Institutional Boilers & Process Heaters, VACATED on 7/30/07.	DDDDD		
77	Iron Foundries	EEEEE	X	X
78	Integrated Iron & Steel	FFFFF	X	X
79	Site Remediation	GGGGG	X	X
80	Misc. Coating Manufacturing	HHHHH	X	X
81	Mercury Cell Chlor-Alkali	IIIII	X	X
82	Brick & Structural Clay Products, VACATED on 6/18/07	JJJJJ		
83	Clay Ceramics Manufacturing, VACATED on 6/18/07	KKKKK		
84	Asphalt Roofing & Processing	LLLLL	X	X
85	Flex. Polyurethane Foam Fabrication	MMMMM	X	X
86	Hydrochloric Acid Prod/Fumed Silica	NNNNN	X	X
87	Engine & Rocket Test Facilities	PPPPP	X	X
88	Friction Materials Manufacturing	QQQQQ	X	X
89	Taconite Iron Ore	RRRRR	X	X
90	Refractories	SSSSS	X	X
91	Primary Magnesium	TTTTT	X	X

Area Source Rules

92	Hospital Sterilizers	WWWWW	X	
93	Electric Arc Furnaces Stainless and Nonstainless Steel Mfg	YYYYY	X	
94	Iron & Steel foundries	ZZZZZ	X	
95	Gasoline Distribution—Bulk	BBBBBB	X	
96	Gasoline Dispensing Facilities	CCCCCC	X	
97	PVC & Copolymers Prod	DDDDDD	X	
98	Primary Copper	EEEEEE	X	
99	Secondary Copper Smelting	FFFFFF	X	
100	Primary Nonferrous Metals	GGGGGG	X	
	Paint Stripping.			
101	Auto-Body Refinishing	HHHHHH	X	
	Plastic Parts & Prod. (coating).			
102	Acrylic/Modacrylic Fibers Prod	LLLLLL	X	
103	Carbon Black Prod	MMMMMM	X	
104	Chemical Mfg. Chrom	NNNNNN	X	
	Flex. Polyurethane Foam Fab.			
105	Flex. Polyurethane Foam Prod	OOOOOO	X	
106	Lead Acid Battery Mfg	PPPPPP	X	
107	Wood Preserving	QQQQQQ	X	
108	Clay Ceramics Mfg	RRRRRR		
109	Glass Mfg	SSSSSS		
110	Secondary Nonferrous Metals	TTTTTT		
110	Plating and Polishing	WWWWWW		

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—KENTUCKY¹—Continued

	Source category	Subpart	KDEP ²	LAPCD ³
112	Heating Eq. Mfg	XXXXXX		
	Industrial Mach. & Eq. Finishing.			
	Elect. & Electronics Eq. Finishing.			
	Fabricated Metal Prod.			
	Fabricated Plate Work (Boiler Shop).			
	Fabricated Structural Metal Mfg.			
	Iron and Steel Forging.			
	Primary Metals Prod. Mfg.			
	Valves and Pipe Fittings Mfg.			
	Ferroalloys Production.			
113	Ferro/Silico Manganese	YYYYYY		

¹ State program approved on October 31, 2001. Delegation table last updated on April 1, 2009.² Kentucky Department for Environmental Protection.³ Louisville Air Pollution Control District.

(ii) [Reserved]

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(25) *Mississippi*.

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the

Mississippi Department of Environmental Quality (MDEQ) for all sources. The “X” symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set

forth in Federal law, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards.

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—MISSISSIPPI¹

	Source category	Subpart	MDEQ
1	HON	F, G, H, I	X
2	Polyvinyl Chloride & Co-polymers VACATED on 5/11/05	J	
3	Coke Ovens	L	X
4	Dry Cleaners	M	X
5	Chromium Electroplating	N	X
6	EtO Commercial Sterilization	O	X
7	Chromium Cooling Towers	Q	X
8	Gasoline Distribution (stage 1)	R	X
9	Pulp & Paper I	S	X
10	Halogenated Solvent Cleaning	T	X
11	Polymer & Resins 1	U	X
12	Polymer & Resins 2	W	X
13	Secondary Lead Smelters	X	X
14	Marine Tank Vessel Loading	Y	X
15	Phosphoric Acid Mfg	AA	X
16	Phosphate Fertilizers Prod	BB	X
17	Petroleum Refineries	CC	X
18	Offsite Waste & Recovery	DD	X
	Tanks; Level 1	OO	X
	Containers	PP	X
	Surface Impoundments	QQ	X
	Drain Systems	RR	X
	Oil-Water Separators	VV	X
19	Magnetic Tape	EE	X
20	Aerospace Industry	GG	X
21	Oil & Natural Gas Prod	HH	X
	Area Source Requirements >>.		
22	Shipbuilding and Repair	II	X
23	Wood Furniture Mfg	JJ	X
24	Printing & Publishing	KK	X
25	Primary Aluminum	LL	X
26	Pulp & Paper II (Combustion sources)	MM	X
27	Generic MACT:		
	Control Devices	SS	X
	Eq. Leaks—Level 1	TT	X
	Eq. Leaks—Level 2	UU	X
	Tanks—Level 2	WW	X
28	Generic MACT:		
	Ethylene Mfg	XX & YY	X
	Carbon Black	YY	X
	Spandex Prod	YY	X
	Cyanide Chemical Mfg	YY	X
	Acetal Resins	YY	X
	Acrylic/Modacrylic Fibers	YY	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—MISSISSIPPI¹—Continued

	Source category	Subpart	MDEQ
	Hydrogen Fluoride Prod	YY	X
	Polycarbonates Prod	YY	X
29	Steel Pickeling	CCC	X
30	Mineral Wool Prod	DDD	X
31	Hazardous Waste Combustion (Phase I)	EEE	X
32	Boilers that burn Haz. Waste (Phase II)	EEE	X
33	HCL Prod. Furnaces burning Haz. Waste (P II)	EEE	X
34	Pharmaceutical Prod	GGG	X
35	Nat. Gas Transmission & Storage	HHH	X
36	Flexible Polyurethane Foam Prod	III	X
37	Polymer & Resins 4	JJJ	X
38	Portland Cement	LLL	X
39	Pesticide Active Ingredients	MMM	X
40	Wool Fiberglass	NNN	X
41	Polymer & Resins 3 (Amino & Phenolic)	OOO	X
42	Polyether Polyols Prod	PPP	X
43	Primary Copper	QQQ	X
44	Secondary Aluminum Prod	RRR	X
45	Primary Lead Smelting	TTT	X
46	Petro Refineries (FCC units)	UUU	X
47	POTW	VVV	X
48	Ferroalloys	XXX	X
49	Municipal Landfills	AAAA	X
50	Nutritional Yeast	CCCC	X
51	Plywood and Composite Wood Prod. (Partial Vacatur Oct. 07)	DDDD	X
52	Organic Liquids Distribution (non-gas)	EEEE	X
53	Misc. Organic NESHAP	FFFF	X
54	Vegetable Oil	GGGG	X
55	Wet Formed Fiberglass	HHHH	X
56	Auto & Light Duty Truck (coating)	IIII	X
57	Paper & Other Webs	JJJJ	X
58	Metal Can (coating)	KKKK	X
59	Misc. Metal Parts (coating)	MMMM	X
60	Large Appliances (coating)	NNNN	X
61	Printing, Coating, & Dyeing Fabrics	OOOO	X
62	Plastic Parts & Products (coating)	PPPP	X
63	Wood Building Products	QQQQ	X
64	Metal Furniture (coating)	RRRR	X
65	Metal Coil (coating)	SSSS	X
66	Leather Tanning & Finishing	TTTT	X
67	Cellulose Ethers Prod. Misc. Viscose Processes	UUUU	X
68	Boat Manufacturing	VVVV	X
69	Reinforced Plastic Composites	WWWW	X
70	Rubber Tire Mfg	XXXX	X
71	Stationary Combustion Turbines	YYYY	X
72	Reciprocating Int. Combustion Engines	ZZZZ	X
	Area Source Requirements >>.		
73	Lime Manufacturing	AAAAA	X
74	Semiconductor Production	BBBBB	X
75	Coke Ovens: (Push/Quench/Battery/Stacks)	CCCCC	X
76	Industrial/Commercial/Institutional Boilers & Process Heaters, VACATED on 7/30/07	DDDDD	X
77	Iron Foundries	EEEEE	X
78	Integrated Iron & Steel	FFFFF	X
79	Site Remediation	GGGGG	X
80	Misc. Coating Manufacturing	HHHHH	X
81	Mercury Cell Chlor-Alkali	IIIII	X
82	Brick & Structural Clay Products, VACATED on 6/18/07	JJJJJ	
83	Clay Ceramics Manufacturing, VACATED on 6/18/07	KKKKK	
84	Asphalt Roofing & Processing	LLLLL	X
85	Flex. Polyurethane Foam Fabrication	MMMMM	X
86	Hydrochloric Acid Prod/Fumed Silica	NNNNN	X
87	Engine & Rocket Test Facilities	PPPPP	X
88	Friction Materials Manufacturing	QQQQQ	X
89	Taconite Iron Ore	RRRRR	X
90	Refractories	SSSSS	X
91	Primary Magnesium	TTTTT	X

Area Source Rules

92	Hospital Sterilizers	WWWWW	X
93	Stainless and Nonstainless Steel Mfg. Electric Arc Furnaces	YYYYY	X
94	Iron & Steel foundries	ZZZZZ	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—MISSISSIPPI¹—Continued

	Source category	Subpart	MDEQ
95	Gasoline Distribution—Bulk	BBBBBB	X
96	Gasoline Dispensing Facilities	CCCCC	X
97	PVC & Copolymers Prod.	DDDDDD	X
98	Primary Copper	EEEEEE	X
99	Secondary Copper Smelting	FFFFFF	X
100	Primary Nonferrous Metals	GGGGGG	X
	Paint Stripping		
101	Auto-Body Refinishing	HHHHHH	
	Plastic Parts & Prod. (coating)		
102	Acrylic/Modacrylic Fibers Prod	LLLLLL	X
103	Carbon Black Prod	MMMMMM	X
104	Chemical Mfg. Chrom	NNNNNN	X
	Flex. Polyurethane Foam Fab.		
105	Flex. Polyurethane Foam Prod	OOOOOO	X
106	Lead Acid Battery Mfg.	PPPPPP	X
107	Wood Preserving	QQQQQQ	X
108	Clay Ceramics Mfg	RRRRRR	X
109	Glass Mfg	SSSSSS	X
110	Secondary Nonferrous Metals	TTTTTT	X
110	Plating and Polishing	WWWWWW	X
112	Heating Eq. Mfg	XXXXXX	X
	Industrial Mach. & Eq. Finishing.		
	Elect. & Electronics Eq. Finishing.		
	Fabricated Metal Prod.		
	Fabricated Plate Work (Boiler Shop).		
	Fabricated Structural Metal Mfg.		
	Iron and Steel Forging.		
	Primary Metals Prod. Mfg.		
	Valves and Pipe Fittings Mfg.		
113	Ferroalloys Production	YYYYYY	
	Ferro/Silico Manganese		

¹ State program approved on December 28, 1994. Delegation table last updated on November 3, 2008.

(ii) [Reserved]

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(34) * * *

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the North

Carolina Department of Environment and Natural Resources (NCDENR) for all sources. The “X” symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set

forth in Federal law, regulations, policy, guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards.

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—NORTH CAROLINA¹

Source category	Subpart	NCDENR	FCEAD ²	MCDEP ³	WNC ⁴
HON	F, G, H, I	X	X	X	X
Polyvinyl Chloride & Co-polymers VACATED on 5/11/05.	J				
Coke Ovens	L	X	X	X	X
Dry Cleaners	M	X	X	X	X
Chromium Electroplating	N	X	X	X	X
EtO Commercial Sterilization	O	X	X	X	X
Chromium Cooling Towers	Q	X	X	X	X
Gasoline Distribution (stage 1)	R	X	X	X	X
Pulp & Paper I	S	X	X	X	X
Halogenated Solvent Cleaning	T	X	X	X	X
Polymer & Resins 1	U	X	X	X	X
Polymer & Resins 2	W	X	X	X	X
Secondary Lead Smelters	X	X	X	X	X
Marine Tank Vessel Loading	Y	X	X	X	X
Phosphoric Acid Mfg	AA	X	X	X	X
Phosphate Fertilizers Prod	BB	X	X	X	X
Petroleum Refineries	CC	X	X	X	X
Offsite Waste & Recovery	DD	X	X	X	X
Tanks; Level 1	OO	X	X	X	X
Containers	PP	X	X	X	X
Surface Impoundments	QQ	X	X	X	X
Drain Systems	RR	X	X	X	X
Oil-Water Separators	VV	X	X	X	X
Magnetic Tape	EE	X	X	X	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—NORTH CAROLINA¹—Continued

Source category	Subpart	NCDENR	FCEAD ²	MCDEP ³	WNC ⁴
Aerospace Industry	GG	X	X	X	X
Oil & Natural Gas Prod	HH	X	X	X	X
Shipbuilding and Repair	Area Source Requirements >>.				
Wood Furniture Mfg	II	X	X	X	X
Printing & Publishing	JJ	X	X	X	X
Primary Aluminum	KK	X	X	X	X
Pulp & Paper II (Combustion sources)	LL	X	X	X	X
Generic MACT	MM	X	X	X	X
Control Devices	SS	X	X	X	X
Eq. Leaks—Level 1	TT	X	X	X	X
Eq. Leaks—Level 2	UU	X	X	X	X
Tanks—Level 2	WW	X	X	X	X
Generic MACT					
Ethylene Mfg	XX & YY	X	X	X	X
Carbon Black	YY	X	X	X	X
Spandex Prod	YY	X	X	X	X
Cyanide Chemical Mfg	YY	X	X	X	X
Acetal Resins	YY	X	X	X	X
Acrylic/Modacrylic Fibers	YY	X	X	X	X
Hydrogen Fluoride Prod	YY	X	X	X	X
Polycarbonates Prod	YY	X	X	X	X
Steel Pickeling	CCC	X	X	X	X
Mineral Wool Prod	DDD	X	X	X	X
Hazardous Waste Combustion (Phase I)	EEE	X	X	X	X
Boilers that burn Haz. Waste (Phase II)	EEE	X	X	X	X
HCL Prod. Furnaces burning Haz. Waste (P II) ...	EEE	X	X	X	X
Pharmaceutical Prod	GGG	X	X	X	X
Nat. Gas Transmission & Storage	HHH	X	X	X	X
Flexible Polyurethane Foam Prod	III	X	X	X	X
Polymer & Resins 4	JJJ	X	X	X	X
Portland Cement	LLL	X	X	X	X
Pesticide Active Ingredients	MMM	X	X	X	X
Wool Fiberglass	NNN	X	X	X	X
Polymer & Resins 3 (Amino & Phenolic)	OOO	X	X	X	X
Polyether Polyols Prod	PPP	X	X	X	X
Primary Copper	QQQ	X	X	X	X
Secondary Aluminum Prod	RRR	X	X	X	X
Primary Lead Smelting	TTT	X	X	X	X
Petro Refineries (FCC units)	UUU	X	X	X	X
POTW	VVV	X	X	X	X
Ferroalloys	XXX	X	X	X	X
Municipal Landfills	AAAA	X	X	X	X
Nutritional Yeast	CCCC	X	X	X	X
Plywood and Composite Wood Prod. (Partial Vacatur Oct. 07).	DDDD	X	X	X	X
Organic Liquids Distribution (non-gas)	EEEE	X	X	X	X
Misc. Organic NESHAP	FFFF	X	X	X	X
Vegetable Oil	GGGG	X	X	X	X
Wet Formed Fiberglass	HHHH	X	X	X	X
Auto & Light Duty Truck (coating)	IIII	X	X	X	X
Paper & Other Webs	JJJJ	X	X	X	X
Metal Can (coating)	KKKK	X	X	X	X
Misc. Metal Parts (coating)	MMMM	X	X	X	X
Large Appliances (coating)	NNNN	X	X	X	X
Printing, Coating, & Dyeing Fabrics	OOOO	X	X	X	X
Plastic Parts & Products (coating)	PPPP	X	X	X	X
Wood Building Products	QQQQ	X	X	X	X
Metal Furniture (coating)	RRRR	X	X	X	X
Metal Coil (coating)	SSSS	X	X	X	X
Leather Tanning & Finishing	TTTT	X	X	X	X
Cellulose Ethers Prod. Misc. Viscose Processes	UUUU	X	X	X	X
Boat Manufacturing	VVVV	X	X	X	X
Reinforced Plastic Composites	WWWW	X	X	X	X
Rubber Tire Mfg	XXXX	X	X	X	X
Stationary Combustion Turbines	YYYY	X	X	X	X
Reciprocating Int. Combustion Engines	ZZZZ	X	X	X	X
Lime Manufacturing	Area Source Requirements >>.				
Semiconductor Production	AAAAA	X	X	X	X
Coke Ovens: (Push/Quench/Battery/Stacks)	BBBBB	X	X	X	X
Industrial/Commercial/Institutional	CCCCC	X	X	X	X
	DDDDD				

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—NORTH CAROLINA¹—Continued

Source category	Subpart	NCDENR	FCEAD ²	MCDEP ³	WNC ⁴
Boilers & Process Heaters, VACATED on 7/30/07.					
Iron Foundries	EEEEEE	X	X	X	X
Integrated Iron & Steel	FFFFF	X	X	X	X
Site Remediation	GGGGG	X	X	X	X
Misc. Coating Manufacturing	HHHHH	X	X	X	X
Mercury Cell Chlor-Alkali	IIIII	X	X	X	X
Brick & Structural Clay Products, VACATED on 6/18/07.	JJJJJ				
Clay Ceramics Manufacturing, VACATED on 6/18/07.	KKKKK				
Asphalt Roofing & Processing	LLLLL	X	X	X	X
Flex. Polyurethane Foam Fabrication	MMMMM	X	X	X	X
Hydrochloric Acid Prod/Fumed Silica	NNNNN	X	X	X	X
Engine & Rocket Test Facilities	PPPPP	X	X	X	X
Friction Materials Manufacturing	QQQQQ	X	X	X	X
Taconite Iron Ore	RRRRR	X	X	X	X
Refactories	SSSSS	X	X	X	X
Primary Magnesium	TTTTT	X	X	X	X

Area Source Rules

Hospital Sterilizers	WWWWW	X	X	X	X
Stainless and Nonstainless Steel Mfg Electric Arc Furnaces.	YYYYY	X	X	X	X
Iron & Steel foundries	ZZZZZ	X	X	X	X
Gasoline Distribution—Bulk	BBBBBB	X	X	X	X
Gasoline Dispensing Facilities	CCCCC	X	X	X	X
PVC & Copolymers Prod	DDDDDD	X	X	X	X
Primary Copper	EEEEEE	X	X	X	X
Secondary Copper Smelting	FFFFFF	X	X	X	X
Primary Nonferrous Metals	GGGGGG	X	X	X	X
Paint Stripping.					
Auto-Body Refinishing	HHHHHH	X	X	X	X
Plastic Parts & Prod. (coating).					
Acrylic/Modacrylic Fibers Prod	LLLLLL	X	X	X	X
Carbon Black Prod	MMMMMM	X	X	X	X
Chemical Mfg. Chrom	NNNNNN	X	X	X	X
Flex. Polyurethane Foam Fab	OOOOOO	X	X	X	X
Flex. Polyurethane Foam Prod.					
Lead Acid Battery Mfg	PPPPPP	X	X	X	X
Wood Preserving	QQQQQQ	X	X	X	X
Clay Ceramics Mfg	RRRRRR	X	X	X	X
Glass Mfg	SSSSSS	X	X	X	X
Secondary Nonferrous Metals	TTTTTT	X	X	X	X
Plating and Polishing	WWWWWW	X	X	X	X
Industrial Mach. & Eq. Finishing	XXXXXX	X	X	X	X
Elect. & Electronics Eq. Finishing.					
Fabricated Metal Prod.					
Fabricated Plate Work (Boiler Shop).					
Fabricated Structural Metal Mfg.					
Heating Eq. Mfg.					
Iron and Steel Forging.					
Primary Metals Prod. Mfg.					
Valves and Pipe Fittings Mfg.					
Ferroalloys Production	YYYYYY	X	X	X	X
Ferro/Silico Manganese.					

¹ State program approved on August 31, 2001. Delegation table last updated on February 23, 2009.² Forsyth County Environmental Affairs Department.³ Mecklenburg County Department of Environmental Protection.⁴ Western North Carolina Regional Air Quality Agency.

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(41) * * *

(i) The following table lists the specific part 63 standards that have been delegated unchanged to the South Carolina Department of Health and

Environmental Control (SCDHEC) for all sources. The “X” symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law, regulations, policy,

guidance, and determinations. Some authorities cannot be delegated and are retained by EPA. These include certain General Provisions authorities and specific parts of some standards.

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—SOUTH CAROLINA¹

	Source category	Subpart	SCDHEC
1	HON	F, G, H, I	X
2	Polyvinyl Chloride & Co-polymers VACATED on 5/11/05	J	
3	Coke Ovens	L	X
4	Dry Cleaners	M	X
5	Chromium Electroplating	N	X
6	EtO Commercial Sterilization	O	X
7	Chromium Cooling Towers	Q	X
8	Gasoline Distribution (stage 1)	R	X
9	Pulp & Paper I	S	X
10	Halogenated Solvent Cleaning	T	X
11	Polymer & Resins 1	U	X
12	Polymer & Resins 2	W	X
13	Secondary Lead Smelters	X	X
14	Marine Tank Vessel Loading	Y	X
15	Phosphoric Acid Mfg	AA	X
16	Phosphate Fertilizers Prod	BB	X
17	Petroleum Refineries	CC	X
18	Offsite Waste & Recovery	DD	X
	Tanks; Level 1	OO	X
	Containers	PP	X
	Surface Impoundments	QQ	X
	Drain Systems	RR	X
	Oil-Water Separators	VV	X
19	Magnetic Tape	EE	X
20	Aerospace Industry	GG	X
21	Oil & Natural Gas Prod	HH	X
	Area Source Requirements >>.		X
22	Shipbuilding and Repair	II	X
23	Wood Furniture Mfg	JJ	X
24	Printing & Publishing	KK	X
25	Primary Aluminum	LL	X
26	Pulp & Paper II (Combustion sources)	MM	X
27	Generic MACT:		
	Control Devices	SS	X
	Eq. Leaks—Level 1	TT	X
	Eq. Leaks—Level 2	UU	X
	Tanks—Level 2	WW	X
28	Generic MACT:		
	Ethylene Mfg	XX & YY	X
	Carbon Black	YY	X
	Spandex Prod	YY	X
	Cyanide Chemical Mfg	YY	X
	Acetal Resins	YY	X
	Acrylic/Modacrylic Fibers	YY	X
	Hydrogen Fluoride Prod	YY	X
	Polycarbonates Prod	YY	X
29	Steel Pickling	CCC	X
30	Mineral Wool Prod	DDD	X
31	Hazardous Waste Combustion (Phase I)	EEE	X
32	Boilers that burn Haz. Waste (Phase II)	EEE	X
33	HCL Prod. Furnaces burning Haz. Waste (P II)	EEE	X
34	Pharmaceutical Prod	GGG	X
35	Nat. Gas Transmission & Storage	HHH	X
36	Flexible Polyurethane Foam Prod	III	X
37	Polymer & Resins 4	JJJ	X
38	Portland Cement	LLL	X
39	Pesticide Active Ingredients	MMM	X
40	Wool Fiberglass	NNN	X
41	Polymer & Resins 3 (Amino & Phenolic)	OOO	X
42	Polyether Polyols Prod	PPP	X
43	Primary Copper	QQQ	X
44	Secondary Aluminum Prod	RRR	X
45	Primary Lead Smelting	TTT	X
46	Petro Refineries (FCC units)	UUU	X
47	POTW	V V V	X
48	Ferroalloys	X X X	X
49	Municipal Landfills	AAAA	X
50	Nutritional Yeast	CCCC	X
51	Plywood and Composite Wood Prod. (Partial Vacatur Oct. 07)	DDDD	X
52	Organic Liquids Distribution (non-gas)	EEEE	X
53	Misc. Organic NESHAP	FFFF	X
54	Vegetable Oil	GGGG	X

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—SOUTH CAROLINA¹—Continued

	Source category	Subpart	SCDHEC
55	Wet Formed Fiberglass	HHHH	X
56	Auto & Light Duty Truck (coating)	IIII	X
57	Paper & Other Webs	JJJJ	X
58	Metal Can (coating)	KKKK	X
59	Misc. Metal Parts (coating)	MMMM	X
60	Large Appliances (coating)	NNNN	X
61	Printing, Coating, & Dyeing Fabrics	OOOO	X
62	Plastic Parts & Products (coating)	PPPP	X
63	Wood Building Products	QQQQ	X
64	Metal Furniture (coating)	RRRR	X
65	Metal Coil (coating)	SSSS	X
66	Leather Tanning & Finishing	TTTT	X
67	Cellulose Ethers Prod Misc. Viscose Processes	UUUU	X
68	Boat Manufacturing	VVVV	X
69	Reinforced Plastic Composites	WWWW	X
70	Rubber Tire Mfg	XXXX	X
71	Stationary Combustion Turbines	YYYY	X
72	Reciprocating Int. Combustion Engines	ZZZZ	X
	Area Source Requirements >>.		X
73	Lime Manufacturing	AAAAA	X
74	Semiconductor Production	BBBBB	X
75	Coke Ovens: (Push/Quench/Battery/Stacks)	CCCCC	X
76	Industrial/Commercial/Institutional Boilers & Process Heaters, VACATED on 7/30/07	DDDDD	
77	Iron Foundries	EEEEE	X
78	Integrated Iron & Steel	FFFFF	X
79	Site Remediation	GGGGG	X
80	Misc. Coating Manufacturing	HHHHH	X
81	Mercury Cell Chlor-Alkali	IIIII	X
82	Brick & Structural Clay Products, VACATED on 6/18/07	JJJJJ	
83	Clay Ceramics Manufacturing, VACATED on 6/18/07	KKKKK	
84	Asphalt Roofing & Processing	LLLLL	X
85	Flex. Polyurethane Foam Fabrication	MMMMM	X
86	Hydrochloric Acid Prod/Fumed Silica	NNNNN	X
87	Engine & Rocket Test Facilities	PPPPP	X
88	Friction Materials Manufacturing	QQQQQ	X
89	Taconite Iron Ore	RRRRR	X
90	Refractories	SSSSS	X
91	Primary Magnesium	TTTTT	X

Area Source Rules

92	Hospital Sterilizers	WWWWW	X
93	Stainless and Nonstainless Steel Mfg Electric Arc Furnaces	YYYYY	X
94	Iron & Steel foundries	ZZZZZ	X
95	Gasoline Distribution—Bulk	BBBBBB	X
96	Gasoline Dispensing Facilities	CCCCC	X
97	PVC & Copolymers Prod	DDDDD	X
98	Primary Copper	EEEEEE	X
99	Secondary Copper Smelting	FFFFFF	X
100	Primary Nonferrous Metals	GGGGGG	X
101	Paint Stripping	HHHHHH	X
	Auto-Body Refinishing.		
	Plastic Parts & Prod. (coating)		
102	Acrylic/Modacrylic Fibers Prod	LLLLLL	X
103	Carbon Black Prod	MMMMMM	X
104	Chemical Mfg. Chrom	NNNNNN	X
105	Flex. Polyurethane Foam Fab	OOOOOO	X
	Flex. Polyurethane Foam Prod		
106	Lead Acid Battery Mfg	PPPPPP	X
107	Wood Preserving	QQQQQQ	X
108	Clay Ceramics Mfg	RRRRRR	X
109	Glass Mfg	SSSSSS	X
110	Secondary Nonferrous Metals	TTTTTT	X
110	Plating and Polishing	WWWWWW	X
112	Heating Eq. Mfg	XXXXXX	X
	Industrial Mach. & Eq. Finishing		
	Elect. & Electronics Eq. Finishing		
	Fabricated Metal Prod		
	Fabricated Plate Work (Boiler Shop)		
	Fabricated Structural Metal Mfg		
113	Ferro/Silico Manganese	YYYYYY	X
	Iron and Steel Forging		

PART 63 MAJOR & AREA SOURCE RULE DELEGATIONS—SOUTH CAROLINA¹—Continued

	Source category	Subpart	SCDHEC
	Primary Metals Prod. Mfg Valves and Pipe Fittings Mfg Ferroalloys Production		

¹ State program approved on June 26, 1995. Delegation table last updated on February 23, 2009.

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[FR Doc. E9–10154 Filed 5–12–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0093; FRL–8412–5]

Calcium Lactate Pentahydrate; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of calcium lactate pentahydrate (CAS Reg. No. 5743–47–5) when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. SynTech Global LLC, on behalf of BioNext sprl submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Federal Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of calcium lactate pentahydrate.

DATES: This regulation is effective May 13, 2009. Objections and requests for hearings must be received on or before July 13, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2008–0093. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Karen Samek, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8825; e-mail address: samek.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0093 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 13, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2008–0093, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental

Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

II. Background and Statutory Findings

In the **Federal Register** of June 4, 2008 (73 FR 31862) (FRL-8365-3), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104-170), announcing the filing of a pesticide petition (PP 7F7311) by SynTech Global LLC on behalf of BioNext sprl, Passage des deportes, 2, B-5030 Gembloux, Belgium. The petition requested that 40 CFR 180.910 be amended by establishing an exemption from the requirement of a tolerance for residues of calcium lactate pentahydrate when used as an inert ingredient in pesticide formulations with the active ingredient *Candida oleophila* strain O as a post-harvest treatment on stored apples and pears to control *Botrytis cinerea* (grey mold) and *Penicillium expansum* (blue mold). That notice included a summary of the petition prepared by the petitioner. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the exemption requested to include an exemption from the requirement of a tolerance for residues of calcium lactate pentahydrate (CAS Reg. No. 5743-47-5) under 40 CFR 180.910 when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. The reason for these changes are explained in Unit IV.

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

give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by calcium lactate pentahydrate are discussed in this unit.

The Agency has reviewed the data submitted by the petitioner. The data submitted includes data on lactic acid, as well as data on calcium lactate. Because it is likely that calcium lactate readily disassociates to lactic acid and calcium in the body, the Agency has concluded that the data on lactic acid can be used in conjunction with the data on calcium lactate and that these

data are adequate to characterize the toxicity of calcium lactate pentahydrate.

Acute oral and inhalation toxicity of lactic acid to rats and acute dermal toxicity of lactic acid to rabbits are low. L(+)-Lactic acid is severely irritating and corrosive to rabbit skin. It is expected to be severely irritating to the eyes. Dilute solutions are irritating to the eyes of rabbits. L(+)-Lactic acid is not a dermal sensitizer in guinea pigs. Repeat oral exposure of rats to calcium lactate for 90 days produced no toxicity at doses up to 5,000 milligrams/kilograms/day (mg/kg/day). No neurotoxicity studies are available; however, no signs of neurotoxicity were observed in any of the available studies. Based on the results of the mutagenicity studies, calcium lactate pentahydrate is not likely to be mutagenic. A 2-year bioassay of calcium lactate in rats showed no evidence of carcinogenicity or any systemic toxicity at doses up to 5,000 mg/kg/day.

No developmental or reproductive toxicity studies are available for calcium lactate pentahydrate, however, the Agency concluded that no developmental or reproductive studies are needed because there is no systemic toxicity identified at doses up to 5,000 mg/kg/day in a 2-year chronic toxicity study. In addition, a developmental toxicity study for lactic acid resulted in no maternal or developmental effects and none of the reproductive parameters were affected in mice at 570 mg/kg/day (only dose tested).

V. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

Calcium lactate is used as a food additive and is a normal constituent of the human diet. It is used as a firming agent in canned fruits and can be found in jellies and preserves. It can be found naturally in aged cheese and is used medically to treat calcium deficiencies. Food and Drug Administration allows the use of calcium lactate as a direct human food ingredient and has granted calcium lactate generally recognized as safe (GRAS) status for use as a firming agent, flavor enhancer, leavening agent, nutrient supplement, stabilizer, and thickener.

The primary route of exposure to calcium lactate pentahydrate from its

use as an inert ingredient in pesticide products would most likely be through consumption of food to which pesticide products containing it have been applied, and possibly through drinking water (from runoff). Residential (dermal and inhalation) exposures from home garden uses are possible.

No hazard was identified for the acute and chronic dietary assessment (food and drinking water), or for the short-, intermediate-, and long-term residential assessments, and therefore no aggregate risk assessments were performed.

VI. Cumulative Effects

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

Unlike other pesticide ingredients for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to calcium lactate pentahydrate and any other substances and calcium lactate pentahydrate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that calcium lactate pentahydrate have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at <http://www.epa.gov/pesticides/cumulative>.

VII. Determination of Safety for Infants and Children

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

value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

The toxicity database for calcium lactate is adequate for FQPA assessment and the potential exposure is adequately characterized given the low toxicity of the chemical. No acute or subchronic neurotoxicity studies are available, but there were no clinical signs of neurotoxicity observed in the available database at doses up to 5,000 mg/kg/day. Therefore, the Agency concluded that these studies are not required. No developmental or reproductive toxicity studies are available for calcium lactate pentahydrate, however, the Agency concluded that no developmental or reproductive studies are needed because there is no systemic toxicity identified at doses up to 5,000 mg/kg/day in a two-year chronic toxicity study. In addition, a developmental toxicity study for lactic acid resulted in no maternal or developmental effects and none of the reproductive parameters were affected in mice at 570 mg/kg/day (only dose tested).

In 1973, World Health Organization (WHO) evaluated lactic acid as well as its ammonium, calcium, potassium, and sodium salts and stated that "There is some evidence that babies in their first three months of life have difficulties in utilizing small amounts of DL and D(-) lactic acids." (INCHEM. (1974). Seventeenth Report of the Joint FAO/WHO Expert Committee on Food Additives, Lactic acid and its ammonium, calcium, potassium and sodium salts. WHO Technical Report Series, No. 539; FAO Nutrition Meetings Report Series, 1974, No. 53. <http://www.inchem.org/documents/jecfa/jecmono/v05je86.htm>). EPA believes that exposure of premature or very young infants to lactic acid is unlikely. As stated in the Agency's reassessment document for lactic acid, "First, premature or very young infants ingest only formula or breast milk. (It is generally recommended that infants not consume solid food until 4 to 6 months of age). Regulation of infant formulas is under the purview of FDA. (www.fda.gov/fdac/features/596_baby.html)." (Stehlin, I; (1996). Infant Formula: Second Best but Good Enough. *FDA Consumer Magazine*. 30 (5)). To carry out their regulation of infant foods and infant formulas, FDA published in 21 CFR 184.1207(c)(2) a very specific limitation that calcium lactate cannot be used in infant foods and infant formulas. Therefore, infants consuming only infant formula or breast milk are not exposed to calcium lactate.

Once past this initial time-period, there is no longer a concern for potential sensitivity to infants and children. Older infants, like adults, process calcium lactate through well understood metabolic pathways.

Based on this information, there is no concern, at this time, for increased sensitivity to infants and children to calcium lactate pentahydrate when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest and a safety factor analysis has not been used to assess risk. For the same reason, EPA has determined that an additional safety factor is not needed to protect the safety of infants and children.

VIII. Determination of Safety for U.S. Population

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Residues of concern are not anticipated for dietary exposure (food and drinking water) or for residential exposure from the use of calcium lactate pentahydrate for the proposed use pattern as an inert ingredient in pesticide products. As discussed in Unit VIII., EPA expects aggregate exposure to calcium lactate to pose no appreciable dietary risk given that the data on calcium lactate show a lack of any systemic toxicity at doses of up to 5,000 mg/kg/day and a lack of any apparent developmental effects and that lactic acid is a normal component of human intermediary metabolism. Furthermore, according to the FDA website <http://www.cfsan.fda.gov/~dms/opascogd.html> "the Select committee concluded that: There is no evidence in the available information on L(+) calcium lactate that demonstrates or suggests reasonable grounds to suspect a hazard to the public when they are

used at levels that are now current or that might reasonably be expected in the future. There is no evidence in the available information on either of the isomers of lactic acid, their calcium salts, and their racemates that demonstrates or suggests reasonable grounds to suspect a hazard to individuals beyond infancy when they are used at levels that are now current or that might reasonably be expected in the future."

Taking into consideration all available information on calcium lactate pentahydrate, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to calcium lactate pentahydrate. Therefore, the establishment of an exemption from tolerance under 40 CFR 180.910 for residues of calcium lactate pentahydrate when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest can be considered safe under section 408 of FFDCA.

IX. Other Considerations

A. Endocrine Disruptors

EPA is required under FFDCA, as amended by FQPA, to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) "may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or other such endocrine effects as the Administrator may designate." Following recommendations of its Endocrine Disruptor and Testing Advisory Committee (EDSTAC), EPA determined that there was a scientific basis for including, as part of the program, the androgen and thyroid hormone systems, in addition to the estrogen hormone system. EPA also adopted EDSTAC's recommendation that the program include evaluations of potential effects in wildlife. For pesticide chemicals, EPA will use the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and to the extent that effects in wildlife may help determine whether a substance may have an effect in humans, FFDCA authority to require the wildlife evaluations. As the science develops and resources allow, screening of additional hormone systems may be added to the Endocrine Disruptor Screening Program (EDSP).

When additional appropriate screening and/or testing protocols being considered under the Agency's EDSP

have been developed, calcium lactate pentahydrate may be subjected to further screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Method

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. International Tolerances

The Agency is not aware of any country requiring a tolerance for calcium lactate pentahydrate nor have any CODEX Maximum Residue Levels been established for any food crops at this time.

D. Revisions to Petitioned-For Exemption

Based upon review of the data supporting the petition, EPA has modified the exemption requested to include an exemption from the requirement of a tolerance for residues of calcium lactate pentahydrate (CAS Reg. No. 5743-47-5) under 40 CFR 180.910 when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest because no hazard was identified and therefore, no limitations are necessary.

X. Conclusions

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of calcium lactate pentahydrate. Accordingly, EPA finds that exempting calcium lactate pentahydrate from the requirement of a tolerance when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest will be safe.

XI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045,

entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

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

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

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

XII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will

submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: April 29, 2009.

Meredith F. Laws,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

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

■ 2. In §180.910, the table is amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Calcium lactate pentahydrate (CAS Reg. No. 5743-47-5).		Nutrient, stabilizer
* * *	* * *	* * *

[FR Doc. E9-10769 Filed 5-12-09; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2008-0164; FRL-8412-9]

Candida oleophila Strain O; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the microbial pesticide, *Candida oleophila* Strain O, on apples and pears when applied/used

as a post-harvest biofungicide. BioNext sprl (in care of SynTech Global, LLC) submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Candida oleophila* Strain O.

DATES: This regulation is effective May 13, 2009. Objections and requests for hearings must be received on or before July 13, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0164. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Jeannine Kausch, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347-8920; e-mail address: kausch.jeannine@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).

- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2008-0164 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 13, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2008-0164, by one of the following methods.

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

• *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

II. Background and Statutory Findings

In the **Federal Register** of March 28, 2008 (73 FR 16673) (FRL-8355-6), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 7F7310) by BioNext sprl, Passage des deportes, 2, B-5030 Gembloux, Belgium (in care of SynTech Global, LLC, P.O. Box 640, Hockessin, DE 19707). The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Candida oleophila* Strain O. This notice included a summary of the petition prepared by the petitioner, BioNext sprl (in care of SynTech Global, LLC). There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to section 408(c)(2)(B) of FFDCA, in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in section 408(b)(2)(C) of FFDCA, which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure

that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...." Additionally, section 408(b)(2)(D) of FFDCA requires that the Agency consider "available information concerning the cumulative effects of a particular pesticide's residues" and "other substances that have a common mechanism of toxicity."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness, and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Candida oleophila Strain O is a single-celled yeast in the phylum Ascomycota, the class Ascomycetes, and the family Saccharomycetaceae. Found naturally on plant tissues (fruits, flowers, and wood) and in water, it was originally isolated from Golden Delicious apples and is intended for use as an antagonist to control the fungal pathogens, grey mold (*Botrytis cinerea*) and blue mold (*Penicillium expansum*), that cause post-harvest decay on apples and pears. The mode of action for *Candida oleophila* Strain O is primarily through competition for nutrients and pre-colonization of plant wound sites. Submitted data also suggest that production of beta-1,3-glucanases (i.e., hydrolytic enzymes that can degrade fungal phytopathogen cell walls) may contribute to its antagonistic activity. According to reported testing, *Candida oleophila* Strain O does not grow above 33°C, is sensitive to ultraviolet light, and is dependent on a carbon source for growth. Some species of *Candida* are reported as opportunistic pathogens to humans and/or animals. *Candida oleophila*, however, is an environmental microbe unable to grow at mammalian body temperatures and easily distinguished from the *Candida* species reported as clinical isolates. More importantly, no pathogenic effects or infections from *Candida oleophila*

Strain O were seen in the submitted infectivity studies discussed below and there have been no clinical reports of *Candida oleophila* infection even though various strains of this species naturally occur on food commodities such as apples, olives, strawberries, fermenting grapes, and tomatoes. Additional information regarding *Candida oleophila* Strain O can be found in the Biopesticides Registration Action Document (BRAD) on the Biopesticides and Pollution Prevention Division (BPPD) website: <http://www.epa.gov/pesticides/biopesticides>.

Studies submitted to the Agency were issued Master Record Identification (MRID) Numbers and reviewed by BPPD scientists. These submissions were considered in light of the microbial pesticides data requirements, which became final on December 26, 2007 (72 FR 61002). The following summaries of the toxicological profile of *Candida oleophila* Strain O are based on an Agency risk assessment memorandum and related data evaluation records dated November 13, 2008.

A. Acute Oral Toxicity and Pathogenicity – Rat (Office of Prevention, Pesticides, and Toxic Substances [OPPTS] Guideline 885.3050; MRID No. 473138-07)

In an acute oral toxicity and pathogenicity study, groups of rats were given a single oral dose of *Candida oleophila* Strain O at a dose of 2.3–3.8 × 10⁸ colony-forming units (CFU)/animal. The animals were observed for a period of up to 22 days with interim scheduled sacrifices on days 4, 8, and 15. There were no treatment-related clinical signs, necropsy findings, or changes in body weight. No test organisms were recovered from the gastrointestinal contents, any organs, or blood of any animal or feces from treated animals sacrificed on day 22. Based on the results of this study, *Candida oleophila* Strain O does not appear to be toxic, infective, and/or pathogenic in rats. This study was rated "ACCEPTABLE" for risk assessment purposes.

B. Acute Subcutaneous Injection Toxicity and Pathogenicity – Rat (OPPTS Guideline 885.3200; MRID No. 473138-08)

In an acute subcutaneous injection toxicity and pathogenicity study, groups of rats were injected subcutaneously with *Candida oleophila* Strain O with a dose of 1.1–2.0 × 10⁷ CFU/animal. The animals were observed for up to 22 days. There were no treatment-related clinical signs, necropsy findings, or changes in body weight. No test

organisms were recovered from the gastrointestinal contents, organs, blood, or the injection site of any animal. Based on the results of this study, *Candida oleophila* Strain O does not appear to be toxic, infective, and/or pathogenic in rats, when dosed at $1.1\text{--}2.0 \times 10^7$ CFU/animal. This study was rated "ACCEPTABLE" for risk assessment purposes.

C. Acute Pulmonary Toxicity and Pathogenicity – Rat (OPPTS Guideline 885.3150; MRID No. 473138-09)

In an acute pulmonary toxicity and pathogenicity study, groups of rats were exposed by the intratracheal route to *Candida oleophila* Strain O at a dose of $1.2\text{--}5.2 \times 10^8$ CFU/animal. The animals were observed for up to 22 days. There were no test substance-related clinical signs, necropsy findings, or changes in body weight. Test organisms were recovered in the lungs from the treated males and females sacrificed one hour post dosing with clearance by day 4. No test organisms were recovered from the gastrointestinal contents, organs, or blood of any animal or feces from treated animals sacrificed on day 22. Based on these results, *Candida oleophila* Strain O does not appear to be toxic, infective, and/or pathogenic to rats at $1.2\text{--}5.2 \times 10^8$ CFU/animal. This study was rated "ACCEPTABLE" for risk assessment purposes.

D. Hypersensitivity Incidents (OPPTS Guideline 885.3400; MRID No. 473138-12)

During a pilot-plant production trial using fermentation vessels and involving large amounts of *Candida oleophila* Strain O, 3 of 6 workers (all on the same work team) not wearing personal protective equipment (PPE) reported clinical symptoms of a respiratory reaction. No adverse dermal effects have been reported by workers. Respiratory and dermal sensitization to consumers is not anticipated, mainly due to the extremely high exposure to *Candida oleophila* Strain O encountered by workers during the fermentation process as opposed to the very low exposure anticipated on treated fruit intended for human consumption. Any future hypersensitivity reports must be reported per OPPTS Guideline 885.3400.

E. Bacterial Reverse Mutation Test (OPPTS Guideline 870.5100; MRID No. 473138-13) and In Vitro Mammalian Cell Gene Mutation Test (OPPTS Guideline 870.5300; MRID No. 473138-14)

Two mutagenicity tests were submitted, reviewed, and indicated that

Candida oleophila Strain O did not have mutagenic potential. These studies were rated "SUPPLEMENTAL" for the purposes of risk assessment and they are not required studies for this active ingredient.

IV. Aggregate Exposures

In examining aggregate exposure, section 408 of FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Dietary exposure to *Candida oleophila* Strain O is likely to occur, mainly through food. However, the lack of acute oral toxicity/pathogenicity, based on the toxicology test on rats presented in Unit III., and the ubiquitous nature of the microbe on various food commodities support the establishment of an exemption from the requirement of a tolerance for *Candida oleophila* Strain O. Additionally, under 40 CFR 180.1144, a similar active ingredient, *Candida oleophila* isolate I-182, was assessed previously and granted an exemption from the requirement of a tolerance when used as a post-harvest biological fungicide in or on all raw agricultural commodities.

1. *Food.* *Candida oleophila* Strain O is naturally present on apples as it was originally isolated in 1991 from the surface of Golden Delicious apples. Based on information submitted to the Agency, population densities of white yeasts are estimated to reach 1.5×10^3 CFU/square centimeter (cm^2) on harvested apples, which includes the natural population of *Candida oleophila*. Background levels of *Candida oleophila* Strain O on apples are expected to be below 1.5×10^3 CFU/ cm^2 . Post-harvest treatment with *Candida oleophila* Strain O will probably lead to a temporary increased level of this yeast on apples. The mode of action of *Candida oleophila* Strain O is primarily based on competition for nutrients; therefore, sufficient colonization of apple surfaces has to be reached to ensure efficacy of the active ingredient. The recommended application rate of *Candida oleophila* Strain O leads to an expected residual *Candida oleophila* Strain O population of approximately 4×10^4 CFU/ cm^2 (10^5 CFU/apple). Standard practices of washing, peeling, cooking, or processing fruits further reduces residues of

Candida oleophila Strain O and minimizes dietary exposure. Actual dietary exposure is expected to be several orders of magnitude lower than the dose used in the acute oral toxicity/pathogenicity test referenced in Unit III., during which no toxic or pathogenic effects were observed in rats. The Agency concludes that there is a reasonable certainty that no harm will result from the aggregate exposure to the residues of *Candida oleophila* Strain O in food.

2. *Drinking water exposure.* Exposure of humans to residues of *Candida oleophila* Strain O in drinking water is unlikely. The proposed use pattern, use sites, and application methods for *Candida oleophila* Strain O (i.e., dip or drench application to apples and pears after harvest and prior to storage) does not include direct application to aquatic environments. In the unlikely event that *Candida oleophila* Strain O was transferred to surface or ground water intended for eventual human consumption, the microbe would not survive the conditions water is subjected to in a drinking water treatment facility, including flocculation, chlorination, pH adjustments, and/or filtration. Even if oral exposure should occur through drinking water, the Agency concludes that there is a reasonable certainty that no harm will result from the exposure to the residues of *Candida oleophila* Strain O in all the anticipated drinking water exposures because of the lack of acute oral toxicity/pathogenicity to mammals and the ubiquitous nature of the microbe, as previously described.

B. Other Non-Occupational Exposure

Potential non-occupational dermal or inhalation exposure is considered unlikely for this distinctly agricultural use (i.e., post-harvest treatment of the harvested portions—pears and apples—of agricultural plants).

1. *Dermal exposure.* Non-occupational dermal exposure to *Candida oleophila* Strain O, when used as labeled, is expected to be negligible because it is limited to post-harvest agricultural treatment of apples and pears. However, should non-occupational dermal exposure occur through treated food commodities, the risk posed by this low toxicity microbe is likely to be minimal based on the toxicity and pathogenicity tests described in Unit III. Furthermore, exposure would not be expected to exceed background as similar yeasts and those in the genus and species, *Candida oleophila*, are commonly associated with particular food commodities.

2. *Inhalation exposure.* Non-occupational inhalation exposure to *Candida oleophila* Strain O, when used as labeled, is expected to be negligible because of the method of application (i.e., dipping and drenching of apples and pears), which then allows sufficient time for drying prior to distribution to consumers. Furthermore, most of the residual yeast on apples and pears is trapped in the cuticular wax and it is unlikely to be inhaled by consumers.

V. Cumulative Effects

Section 408(b)(2)(D)(v) of the FFDCA requires the Agency to consider the cumulative effects of exposure to *Candida oleophila* Strain O and to other substances that have a common mechanism of toxicity. These considerations include the possible cumulative effects of such residues on infants and children. As demonstrated in Unit III., *Candida oleophila* Strain O is not toxic or pathogenic to mammals via several routes of exposure. Additionally, there are no other *Candida oleophila* strains currently registered as pesticides with the Agency. Consequently, since this microbial pesticide has no demonstrated toxicity, there is no reason to anticipate cumulative effects from the residues of this product with other related microbial pesticides.

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) also provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of exposure (safety), which are often referred to as uncertainty factors, are incorporated into EPA risk assessment either directly or through the use of a margin of exposure analysis, or by using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk.

Based on the acute toxicity and pathogenicity data discussed in Unit III., EPA concludes that there is a reasonable certainty that no harm will result from

aggregate exposure to the United States population, including infants and children, to the residues of *Candida oleophila* Strain O. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because the data available on *Candida oleophila* Strain O do not demonstrate toxic, pathogenic, or infective potential to mammals. Thus, there are no threshold effects of concern and, as a result, the provision requiring an additional margin of safety does not apply. Further, the considerations of consumption patterns, special susceptibility, and cumulative effects do not apply to pesticides without a demonstrated significant adverse effect.

VII. Other Considerations

A. Endocrine Disruptors

EPA is required, under Section 408(p) of the FFDCA, to develop a screening program to determine whether certain substances (including all pesticide active and other ingredients) “may have an effect in humans that is similar to an effect produced by naturally-occurring estrogen, or other such endocrine effects as the Administrator may designate.” Following the recommendations of its Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), EPA determined that there was a scientific basis for including, as part of its program, androgen and thyroid hormone systems, in addition to the estrogen hormone system. EPA also adopted EDSTAC’s recommendation that the program include evaluations of potential effects on wildlife.

The Agency has no knowledge of *Candida oleophila* Strain O being an endocrine disruptor, nor is this microbe related to any class of known endocrine disruptors. Following several routes of exposure in rodents, the Tier I toxicology data indicated that the immune system was still intact and able to process and clear *Candida oleophila* Strain O from a variety of organs or tissues. Additional data, specifically on the endocrine effects of this microbial pesticide, are not required at this time. Consequently, endocrine-related concerns did not impact the Agency’s safety finding for *Candida oleophila* Strain O. When the appropriate screening and/or testing protocols being considered under the Agency’s Endocrine Disruptor Screening Program (EDSP) have been developed and implemented, *Candida oleophila* Strain O may be subject to additional screening and/or testing to better characterize effects related to endocrine disruption.

B. Analytical Method(s)

The Agency proposes to establish an exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for *Candida oleophila* Strain O.

C. Codex Maximum Residue Level

No Codex maximum residue level exists for *ECandida oleophila* Strain O.

VIII. Conclusions

The results of the studies discussed in Unit III meet the safety requirements of the Food Quality Protection Act (FQPA) of 1996. They support an exemption from the requirement of a tolerance for the residues of the microbial pesticide, *Candida oleophila* Strain O, on apples and pears. In addition, the Agency is of the opinion that, if the microbial active ingredient is used as allowed, aggregate exposure and cumulative effects are not likely to harm the United States population, including infants and children. Therefore, in response to pesticide tolerance petition 7F7310, an exemption from the requirement of a tolerance is established for the residues of the microbial pesticide, *Candida oleophila* Strain O, on apples and pears when applied/used as a post-harvest biofungicide.

IX. Statutory and Executive Order Reviews

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

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

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

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

X. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection,
Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 1, 2009.

Debra Edwards,

Director, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.1289 is added to subpart D to read as follows:

§ 180.1289 *Candida oleophila* Strain O; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for the residues of the microbial pesticide, *Candida oleophila* Strain O, on apples and pears when applied/used as a post-harvest biofungicide.

[FR Doc. E9-10962 Filed 5-12-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2009-0020; FRL-8410-3]

Methoxyfenozide; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of the insecticide methoxyfenozide *per se*, in or on sorghum, forage; sorghum, grain; and sorghum, stover. This action is in response to a crisis exemption issued by the Louisiana Department of Agriculture under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) authorizing use of the pesticide on grain sorghum. This regulation establishes a maximum permissible level for residues of methoxyfenozide in these feed commodities. The time-limited tolerances expire and will be revoked on December 31, 2012.

DATES: This regulation is effective May 13, 2009. Objections and requests for hearings must be received on or before July 13, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2009-0020. All documents in the docket are listed in the docket index available in <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Stacey Groce, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-2505; e-mail address: groce.stacey@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2009-0020 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 13, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2009-0020, by one of the following methods:

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

- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility’s normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made

for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of FFDCA, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for residues of the insecticide methoxyfenozide *per se* (benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide) in or on sorghum, forage at 30.0 parts per million (ppm); sorghum, grain at 0.05 ppm; and sorghum, stover at 60.0 ppm. These time-limited tolerances expire and will be revoked on December 31, 2012. EPA will publish a subsequent document in the **Federal Register** to remove the revoked tolerances from the CFR.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related time-limited tolerances to set binding precedents for the application of section 408 of FFDCA to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that “emergency conditions exist which require such exemption.” EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Methoxyfenozide on Various Commodities: Sorghum, forage; Sorghum, grain; and Sorghum, stover and FFDCA Tolerances

The Louisiana Department of Agriculture requested an emergency exemption for use of methoxyfenozide on grain sorghum to control the southwestern corn borer and sugarcane borer, and issued a crisis exemption for this use pursuant to 40 CFR part 166, subpart C. The Louisiana Department of Agriculture provided information indicating that the southwestern corn borer and sugarcane borer are serious pests that commonly infest grain sorghum. Methoxyfenozide has been authorized under FIFRA section 18 for use on sorghum, forage, sorghum, grain, and sorghum, stover to control southwestern corn borer and sugarcane borer in Louisiana under the crisis provision.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of the insecticide methoxyfenozide *per se* in or on sorghum, forage; sorghum, grain; and sorghum, stover. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although these time-limited tolerances expire and will be revoked on December 31, 2012, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on sorghum, forage; sorghum, grain; and sorghum, stover after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances

earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

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

IV. Aggregate Risk Assessment and Determination of Safety

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

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of this emergency exemption request and the time-limited tolerances for

residues of the insecticide methoxyfenozide *per se* (benzoic acid, 3-methoxy-2-methyl-2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide) in or on sorghum, forage at 30.0 parts per million (ppm); sorghum, grain at 0.05 ppm; and sorghum, stover at 60.0 ppm. EPA's assessment of exposures and risks associated with establishing time-limited tolerances follows.

A. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-term, intermediate-term, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

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

A summary of the toxicological endpoints for methoxyfenozide used for human risk assessment can be found in the document entitled, "Methoxyfenozide. Human Health Risk

Assessment for Proposed Section 18 Use on Grain Sorghum," dated November 20, 2008, by going to <http://www.regulations.gov>. The referenced document is available in the docket established by this action, which is described under **ADDRESSES**, and is identified as EPA-HQ-OPP-2009-0020-0002 in that docket. Locate and click on the hyperlink for docket ID number EPA-HQ-OPP-2009-0020. Double-click on the document to view the referenced information on page 23 of 34.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to methoxyfenozide, EPA considered exposure under the time-limited tolerances established by this action as well as exposures pursuant to existing methoxyfenozide tolerances in (40 CFR 180.544). EPA assessed dietary exposures from methoxyfenozide in food as follows:

i. *Acute exposure.* No appropriate toxicological endpoint attributable to a single exposure was identified in the available toxicological studies for methoxyfenozide; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994-1996 and 1998 Nationwide Continuing Surveys of food Intake by Individuals (CSFII). As to residue levels in food, an unrefined chronic dietary analysis for methoxyfenozide was conducted using tolerance levels and 100% crop-treated for all existing and proposed uses. Drinking water was incorporated directly into the dietary assessment using the chronic concentration for surface water generated by the PRZM-EXAMS model at 33.1 ppb. The results of the analysis indicate that chronic risk from the dietary (food and drinking water) exposure to methoxyfenozide will not exceed EPA's level of concern for the general U.S. population and all population subgroups.

iii. *Cancer.* Methoxyfenozide is not likely to be carcinogenic to humans; therefore, a cancer exposure assessment was not conducted. This classification is based on the lack of evidence of carcinogenicity in male and female rats as well as in male and female mice and on the lack of genotoxicity in an acceptable battery of mutagenicity studies.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment

for methoxyfenozide. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

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

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of methoxyfenozide for acute dietary exposures are estimated to be 52.2 parts per billion (ppb) for surface water and 7.43 ppb for ground water. The estimated drinking water concentrations (EDWCs) for chronic dietary exposures for non-cancer assessments are estimated to be 33.1 ppb for surface water and 7.43 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. An acute dietary endpoint was not identified; therefore, a quantitative assessment of risk was not conducted for methoxyfenozide. For chronic dietary risk assessment, the water concentration of 33.1 ppb was used to assess the contribution from drinking water.

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

Methoxyfenozide is not registered for any specific use patterns that would result in residential exposure.

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

EPA has not found methoxyfenozide to share a common mechanism of toxicity with any other substances, and methoxyfenozide does not appear to produce a toxic metabolite produced by other substances. For the purposes of

this tolerance action, therefore, EPA has assumed that methoxyfenozide does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at <http://www.epa.gov/pesticides/cumulative>.

C. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* There is not a concern for prenatal and/or postnatal toxicity resulting from exposure to methoxyfenozide. The prenatal and postnatal toxicology database for methoxyfenozide includes rat and rabbit developmental toxicity studies and a 2-generation reproductive study. There was no increased susceptibility in fetuses as compared to maternal animals observed following *in utero* exposures.

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

i. The toxicity database for methoxyfenozide is complete for assessment of potential hazard to infants and children.

ii. There is no indication that methoxyfenozide is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that methoxyfenozide results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or

in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure database. The exposure assessments will not underestimate the potential dietary (food and drinking water) or nondietary exposures for infants and children from use of methoxyfenozide. EPA made conservative (protective) assumptions in the ground water and surface water modeling used to assess exposure to methoxyfenozide in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by methoxyfenozide.

D. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. No adverse effect resulting from a single-oral exposure was identified, therefore, dietary exposure presents no acute risks of concern.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to methoxyfenozide from food and water will utilize 56% of the cPAD for children 1-2 years old, the population group receiving the greatest exposure. There are no residential uses for methoxyfenozide.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Methoxyfenozide is not registered for any use patterns that would result in residential exposure. Therefore, the

short-term aggregate risk is the sum of the risk from exposure to methoxyfenozide through food and water. Thus, the chronic aggregate exposure for the most exposed group is below EPA's level of concern.

4. Intermediate-term risk.

Intermediate-term aggregate exposure takes into account intermediate-term non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

Methoxyfenozide is not registered for any use patterns that would result in intermediate-term residential exposure. Therefore, the intermediate-term aggregate risk is the sum of the risk from exposure to methoxyfenozide through food and water, which has already been addressed, and will not be greater than the chronic aggregate risk.

5. *Aggregate cancer risk for U.S. population.* Methoxyfenozide is classified as a "not likely" human carcinogen and thus is not expected to pose a cancer risk to humans. This classification is based on the lack of evidence of carcinogenicity in male and female rats as well as in male and female mice and on the lack of genotoxicity in an acceptable battery of mutagenicity studies.

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

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high pressure liquid chromatography with mass spectrometry (HPLC/MS)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: residuemethods@epa.gov.

B. International Residue Limits

There are currently no Canadian, Mexican, or Codex maximum residue limits (MRLs) for methoxyfenozide on the commodities for which tolerances are being established.

VI. Conclusion

Therefore, time-limited tolerances are established for residues of the insecticide methoxyfenozide *per se* (benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-

dimethylethyl) hydrazide) in or on sorghum, forage at 30.0 ppm; sorghum, grain at 0.05 ppm; and sorghum, stover at 60.0 ppm. These tolerances expire and will be revoked on December 31, 2012.

VII. Statutory and Executive Order Reviews

This final rule establishes tolerances under sections 408(e) and 408(l)(6) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with sections 408(e) and 408(l)(6) of FFDCA, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175,

entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: April 28, 2009.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

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

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

■ 2. Section 180.544 is amended by adding paragraph (b) to read as follows:

§ 180.544 Methoxyfenozide; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances specified in the following table are established for residues of the insecticide methoxyfenozide *per se* (benzoic acid, 3-methoxy-2-methyl-, 2-(3,5-dimethylbenzoyl)-2-(1,1-dimethylethyl) hydrazide), in or on the specified agricultural commodities, resulting from

use of the pesticide pursuant to FFIFRA section 18 emergency exemptions. The tolerances expire and will be revoked on the date specified in the table.

Commodity	Parts per million	Expiration/revocation date
Sorghum, forage	30.0	December 31, 2012
Sorghum, grain	0.05	December 31, 2012
Sorghum, stover	60.0	December 31, 2012

* * * * *

[FR Doc. E9-10757 Filed 5-12-09; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R06-RCRA-2008-0755; FRL-8901-1]

Texas: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied to the EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Texas' changes to its hazardous waste program will take effect. 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 a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on July 13, 2009 unless the EPA receives adverse written comment by June 12, 2009. If the 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 by one of the following methods:

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

2. **E-mail:** patterson.alima@epa.gov.

3. **Mail:** Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

4. **Hand Delivery or Courier:** Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov), or e-mail. The [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means the 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 the EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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. You can view and copy Texas' application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Texas Commission on Environmental Quality (TCEQ), 12100 Park S. Circle, Austin TX 78753-3087, (512) 239-6079 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone number (214) 665-8533. Interested persons wanting to

examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT:

Alima Patterson, Region 6 Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, (214) 665-8533, EPA Region 1445 Ross Avenue, Dallas, Texas 75202-2733, and E-mail address patterson.alima@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from the 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 change their programs and ask the EPA to authorize the changes. Changes 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 the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

B. What Decisions Have We Made in This Rule?

We conclude that the State of Texas' application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant the State of Texas Final Authorization to operate its hazardous waste program with the changes described in the authorization application. The State of Texas has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian Country) and for carrying out the 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 Federal regulations that the EPA promulgates

under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Texas including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in the State of Texas subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. The State of Texas has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits and
- Take enforcement actions after notice to and consultation with the State.

This action does not impose additional requirements on the regulated community because the regulations for which the State of Texas is being authorized by today's action are already effective under State law, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

The 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. 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 the State program changes.

E. What Happens if the EPA Receives Comments That Oppose This Action?

If the 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. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. 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 only 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 in this document. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. For What Has Texas Previously Been Authorized?

Texas received final authorization to implement its Hazardous Waste Management Program on December 12, 1984, effective December 26, 1984 (49 FR 48300). This authorization was clarified in a notice published in the FR on March 26, 1985 (50 FR 11858). Texas received final authorization for revisions to its program in notices published in the **Federal Register** on January 31, 1986, effective October 4, 1985 (51 FR 3952); on December 18, 1986, effective February 17, 1987 (51 FR 45320). EPA authorized the further revisions on: March 1, 1990, effective March 15, 1990 (55 FR 7318); on May 24, 1990, effective July 23, 1990 (55 FR 21383); on August 22, 1991, effective October 21, 1991 (56 FR 41626); on October 5, 1992, effective December 4, 1992 (57 FR 45719); on April 11, 1994, effective June 27, 1994, (59 FR 16987); on April 12, 1994, effective June 27, 1994 (59 FR 17273); September 12, 1997, effective November 26, 1997 (62 FR 47947); and on August 18, 1999 effective October 18, 1999 (64 FR 44836) and July 13, 2000; effective September 11, 2000 (65 FR 43246) and effective June 14, 2005 (70 FR 34371) June 14, 2005. EPA incorporated by reference the State of Texas Base Program and additional program revisions in RCRA Clusters III and IV into the CFR on September 14, 1999 (64 FR 49673); effective November 15, 1999.

On July 20, 2007, Texas submitted a final complete program revision application, seeking authorization of its program revision in accordance with 40 CFR 271.21. In 1991, Texas Senate Bill 2 created the Texas Natural Resource Conservation Commission (TNRCC) which combined the functions of the former Texas Water Commission and the former Texas Air Control Board. The transfer of functions to the TNRCC from the two agencies became effective on September 1, 1993. House Bill 2912, Article 18 of the 77th Texas Legislature, 2001, changed the name of the TNRCC to the Texas Commission on Environmental Quality (TCEQ) and directed the TNRCC to adopt a timetable for phasing in the change of the agency's

name. The TNRCC decided to make the change of the agency's name to the TCEQ effective September 1, 2002. The change of name became effective September 1, 2002, and the legislative history of the name change is documented at (*See*, Act of June 15, 2001, 77th Leg. R. S., Ch 965, Section 18.01, 2001 Tex. Gen. Laws 1985). The TCEQ may perform any act authorized by law either as the TNRCC or as the TCEQ. *Id.* Therefore, references to the TCEQ are references to TNRCC and to its successor, the TCEQ.

The TCEQ has primary responsibility for administration of laws and regulations concerning hazardous waste, under the Texas Solid Waste Disposal Act (codified in Chapter 361 Sections 361.017 and 361.024 of the Texas Health & Safety Code). The TCEQ is authorized to administer the RCRA program. However, the Railroad Commission (RRC) has jurisdiction over the discharge, storage, handling, transportation, reclamation, or disposal of waste materials (both hazardous and non hazardous) that result from the activities associated with the exploration, development, or production of oil or gas or geothermal resources and other activities regulated by the RRC. *See*, Tex. Water Code Ann. Section 26.131 and Ch. 27 (Vernon 2000). A list of activities that generate wastes that are subject to the jurisdiction of the RRC is found at 16 Tex. Admin. Code Section 3.8(a)(30) and at 30 Tex. Admin. Code Section 335.1. Such wastes are termed "oil and gas wastes." The TCEQ has responsibility to administer the RCRA program, however, hazardous waste generated at natural gas or natural gas liquids processing plants or reservoir pressure maintenance or repressurizing plants are subject to the jurisdiction of the TCEQ until the RRC is authorized by EPA to administer those wastes under RCRA. When the RRC is authorized by EPA to administer the RCRA program for these wastes, jurisdiction over such hazardous waste will transfer from the TCEQ to the RRC. The EPA has designated the TCEQ as the lead agency to coordinate RCRA activities between the two agencies. The EPA is responsible for the regulation of any hazardous waste for which TCEQ has not been previously authorized.

Further clarification of the jurisdiction between the TCEQ and the RRC can be found in a separate document. This document, a Memorandum of Understanding (MOU), became effective on May 31, 1998.

The TCEQ has the rules necessary to implement EPA's RCRA Clusters XI, XII, XIII and XV excluding Uniformed

Hazardous Waste Manifest Rule (Checklist 207) revisions to the Federal Hazardous Waste Program promulgated from July 1, 2000 to June 30, 2005. The adoption for RCRA Clusters XI, XII, XIII, and XV include changes to 30 Texas Administrative Code Chapters 305 and 335. The Commissioners adopted these rules on July 25, 2007 and the rules became effective on August 16, 2007. The TCEQ authority to incorporate Federal rules by reference can be found at Texas Government Code Annotated Section 311.027 (Vernon 1998) and adoption of the hazardous waste rules in general are pursuant to the following statutory provisions: (1) Tex. Water Code Ann. Sections 5.103 and 5.105 (Vernon 2000), effective September 1995, as amended (TCEQ's authority to adopt any rules necessary to carry out its powers and duties); (2) Tex. Health & Safety Code Ann. Section 361.024 (Vernon 2001), effective September 1, 1995, as amended (authorize the Commission to adopt rules necessary to "establish minimum standards of operation for the management and control of solid waste"); and (3) Tex. Health & Safety Code Ann. Section

361.078 (Vernon 2001), effective September 1, 1989 (specifically recognizing TCEQ's authority to adopt hazardous waste rules and to issue and enforce permits to the extent necessary to receive and maintain RCRA authorization). The following are the optional Federal rules that the State of Texas did not adopt: NESHAPS Second Technical Correction, Vacatur Checklist 188.1), Storage, Treatment, Transportation and Disposal of Mixed Waste, (Checklist 191), Inorganic Chemical Manufacturing Waste Identification and listing (Checklist 195.1), Hazardous Air Pollutant Standards for Combustors: Interim Standards (Checklist 197), Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium, Mercury-Containing Batteries and Silver-Containing Batteries (Checklist 201), Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards (Checklist 203), National Environmental Track Program (Checklists 204 and 204.1), and

NESHAP Surface Coating of Automobiles and Light-Duty Trucks. Also, the State of Texas is not authorized for Zinc Fertilizer (Checklist 200) because the State failed to adopt changes to 40 CFR 266.20, 266.20(d), 266.20(d)(1)–(2) and 268.40.

G. What Changes Are We Approving With Today's Action?

On July 20, 2007, the State of Texas submitted a final complete program application, seeking authorization of their changes 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 the State of Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. The State of Texas revisions consist of regulations which specifically govern Federal Hazardous Waste revisions promulgated from July 1, 2000 to June 30, 2005, (RCRA Clusters XI, XII, XIII, and XV). Texas requirements are included in a chart with this document.

Description of federal requirement (include checklist number, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
1. Hazardous Air Pollutant Standards; Technical Corrections. (Checklist 188).	65 FR 42292–42302, July 10, 2000.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(133)(A)(iv), 335.152(a)(13), 305.69(i)(1), as adopted July 25, 2007 and effective August 16, 2007.

Description of federal requirement (include checklist number, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
2. Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes. (Checklist 189).	65 FR 67068–67133, November 8, 2000.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.504, 335.29(2), 335.29(3), and 335.431(c), as adopted July 25, 2007, effective August 16, 2007.
3. Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil. (Checklist 190).	65 FR 81373–81381, December 26, 2000.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431(c), as adopted July 25, 2007, effective August 16, 2007.
4. Mixture and Derived-From Rule Revisions (Checklist 192A).	66 FR 27266–27297, May 16, 2001.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1(62) and (64) as adopted July 25, 2007, effective August 16, 2007.

Description of federal requirement (include checklist number, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
5. Land Disposal Restrictions Corrections. (Checklist 192 B).	66 FR 27266–27297, May 16, 2001.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.431(c), 335.1 (64), as adopted July 25, 2007, effective August 16, 2007.
6. Change of Official EPA Mailing Address. (Checklist 193).	66 FR 34374–34376, June 28, 2001.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.31, as adopted July 25, 2007, effective August 16, 2007.
7. Mixed and Derived-From Rules Revision II. (Checklist 194).	66 FR 50332–50334, October, 3, 2001.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(62) and 335.1(64), as adopted July 25, 2007, effective August 16, 2007.

Description of federal requirement (include checklist number, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
8. Inorganic Chemical Manufacturing Waste Identification and Listing. (Checklist 195).	66 FR 58258, November 20, 2001; 67 FR 17119–17120, April 9, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(133)(A)(iv), 335.504(2), 335.29(2), and 335.431(c)(1), and as adopted July 25, 2007, effective August 16, 2007.
9. Corrective Action Management Units Amendments. (Checklist 196).	67 FR 2962–3029, January 22, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(33), 335.1(123), 335.152(a)(14) and 335.431(c)(1), as adopted July 25, 2007, effective August 16, 2007.
10. Hazardous Air Pollutant Standards for Combustors: Corrections. (Checklist 198).	67 FR 6968–6996, February 14, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.221(a)(1), and 305.69(i)(1), as adopted July 25, 2007, effective August 16, 2007.

Description of federal requirement (include checklist number, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
11. Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Waste and TCLP Use with MGP Waste. (Checklist 199).	67 FR 11251–11254, March 13, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(133)(D)(iii), 335.1(133)(A)(iv), and 335.504(3), as adopted July 25, 2007, effective August 16, 2007.
12. Hazardous Air Pollutant Standards for Combustors—Corrections 2. (Checklist 202).	67 FR 77687–77692, December 19, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 305.175 and 305.571(b), as adopted July 25, 2007, effective August 16, 2007.
13. Nonwastewaters from Dyes and Pigments. (Checklist 206).	70 FR 9138–9180, February 24, 2005.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(133)(A)(iv), 335.504(1)–(2), and 335.431(c)(1) July 25, 2007, effective August 16, 2007.

H. Where Are the Revised State Rules Different From the Federal Rules?

The State hazardous waste program is equivalent to the Federal program and there is no broader in scope provisions in this program revision.

I. Who Handles Permits After the Authorization Takes Effect?

The State of Texas will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous

waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this

authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Texas is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Texas?

The State of Texas Hazardous Waste Program is not being authorized to operate in Indian Country.

K. What Is Codification and Is the EPA Codifying Texas' Hazardous Waste 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 program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart SS for this authorization of Texas' program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this **Federal Register** notice.

I. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes 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 of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste

program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication 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 July 13, 2009.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action 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: April 22, 2009.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. E9-11196 Filed 5-12-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043-4043-01]

RIN 0648-XO64

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2009 Commercial Fishery for Tilefishes

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for tilefishes in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the quota for the commercial fishery for tilefishes will have been reached by May 15, 2009. This closure is necessary to protect the tilefish resource.

DATES: Closure is effective 12:01 a.m., local time, May 15, 2009, through December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Catherine Bruger, telephone 727-824-5305, fax 727-824-5308, e-mail Catherine.Bruger@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council

and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. Those regulations set the commercial quota for tilefishes in the Gulf of Mexico at 440,000 lb (200,000 kg) for the current fishing year, January 1 through December 31, 2009.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect with the Office of the **Federal Register**. Based on current statistics, NMFS has determined that the available commercial quota of 440,000 lb (200,000 kg) for tilefishes will be reached on or before May 15, 2009. Accordingly, NMFS is closing the commercial fishery for tilefishes in the Gulf of Mexico EEZ from 12:01 a.m., local time, on May 15, 2009, through December 31, 2009. The operator of a vessel with a valid commercial vessel permit for Gulf reef fish having tilefishes aboard must have landed and bartered, traded, or sold such tilefishes prior to 12:01 a.m., local time, May 15, 2009.

During the closure, the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of tilefishes in or from the Gulf of Mexico EEZ, and the sale or purchase of tilefishes taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of tilefishes that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, May 15, 2009, and were held in cold storage by a dealer or processor. Vessels with commercial quantities of other Gulf reef fish on board are prohibited from retaining a recreational bag limit of tilefishes.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has already been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to

immediately implement this action to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: May 7, 2009

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.
[FR Doc. E9-11153 Filed 5-8-09; 4:15 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910091344-9056-02]

RIN 0648-XN95

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish and Pelagic Shelf Rockfish for Trawl Catcher Vessels Participating in the Entry Level Rockfish Fishery in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish and pelagic shelf rockfish (PSR) for trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2009 allocation of northern rockfish and PSR allocated to trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 8, 2009, through 1200 hrs, A.l.t., September 1, 2009.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone

according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2009 allocations of northern rockfish and PSR for vessels participating in the entry level trawl fishery Central District of the GOA are 0 metric tons as established by the final 2009 and 2010 harvest specifications for groundfish in the GOA (74 FR 7333, February 17, 2009).

Consequently, in accordance with § 679.83(a)(3), the Administrator, Alaska Region, NMFS, deems it appropriate for conservation and management purposes to not open directed fishing for northern rockfish and PSR for trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA, because there is no available allocation for a directed fishery.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(B) as such requirement is impracticable and contrary to the public interest. Notice and comment is unnecessary because there is no available fish for an allocation and therefore the Regional Administrator has no discretion for any action other than to prohibit directed fishing.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.83 and is exempt from review under Executive Order 12866.

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

Dated: May 8, 2009.

Kristen C. Koch

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E9-11148 Filed 5-8-09; 4:15 pm]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register

Vol. 74, No. 91

Wednesday, May 13, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-R04-OAR-2008-0904; FRL-8893-6]

Amendments to Requirements To Provide Information on the Delegation of the Administrator's Authorities and Responsibilities for Certain States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend regulations to correct a sequential numbering error that failed to reserve space for the alphabetical listing of the State of Florida, reserve space in the regulations for the State of Florida, and add delegation information for the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina. This proposed action is being taken pursuant to section 112 of the Clean Air Act.

In the Final Rules Section of this **Federal Register**, EPA is publishing a direct final rule for this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the rule amendment is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments must be received in writing by June 12, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2008-0904, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: page.lee@epa.gov.

3. *Fax*: 404-562-9095.

4. *Mail*: "EPA-R04-OAR-2008-0904", Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier*: Lee Page, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Lee Page, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring 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) 562-9131. Mr. Page can also be reached via electronic mail at page.lee@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Final Rules Section of this **Federal Register**.

Dated: April 3, 2009.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E9-10151 Filed 5-12-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2009-0251; FRL-8412-3]

Ametryn, Amitraz, Ammonium Soap Salts of Higher Fatty Acids (C₈-C₁₈ saturated; C₈-C₁₂ unsaturated), Bitertanol, Coppers, et al.; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke certain tolerances/tolerance exemptions for the fungicides pentachloronitrobenzene and triadimenol, the herbicides ametryn, fluazifop-P-butyl, and prometryn; the insecticides amitraz and mineral oil; the defoliant/desiccant sodium chlorate; and the fungicide/algicide/herbicide coppers. Also, EPA is proposing to modify certain tolerances for the fungicide bitertanol and the insecticide malathion. In addition, EPA is proposing to establish new tolerances/tolerance exemptions for the fungicides coppers and pentachloronitrobenzene; the herbicide prometryn; the insecticide malathion; and the defoliant/desiccant sodium chlorate; and revise the tolerance expression for the ammonium salts of higher fatty acids (ammonium soap salts). The regulatory actions proposed in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA), section 408(q).

DATES: Comments must be received on or before July 13, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2009-0251, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental

Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2009-0251. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket

Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Joseph Nevola, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460-0001; telephone number: (703) 308-8037; e-mail address: nevola.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

1. **Submitting CBI.** Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked

will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When submitting comments, remember to:

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

C. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60-day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f), if needed. The order would specify data needed and the timeframes for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the

specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

II. Background

A. What Action is the Agency Taking?

EPA is proposing to revoke, modify, and establish specific tolerances/tolerance exemptions for residues of the fungicides bitertanol, pentachloronitrobenzene, and triadimenol; the herbicides ametryn, fluazifop-P-butyl, and prometryn; the insecticides amitraz, malathion, and mineral oil; the defoliant/desiccant sodium chlorate; and the fungicide/algicide/herbicide coppers; and revise the tolerance expression for the ammonium salts of higher fatty acids (ammonium soap salts) in or on commodities listed in the regulatory text.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of "reasonable certainty of no harm" is discussed in detail in each Reregistration Eligibility Decision (RED) and Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242-2419; telephone number: 1-800-490-9198; fax number: 1-513-489-8695; Internet at <http://www.epa.gov/ncepihom> and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161; telephone number: 1-800-553-6847 or (703) 605-6000; Internet at <http://www.ntis.gov>. Electronic copies of REDs and TREDs are available on the Internet in public dockets; REDs for ametryn (EPA-HQ-OPP-2004-0411), coppers (EPA-HQ-OPP-2005-0558), malathion (EPA-HQ-OPP-2004-0348), aliphatic solvents (mineral oil) (EPA-HQ-OPP-2006-0284),

pentachloronitrobenzene (EPA-HQ-OPP-2004-0202), and inorganic chlorates (sodium chlorate) (EPA-HQ-OPP-2005-0507), and TREDs for amitraz (EPA-HQ-OPP-2004-0048), bitertanol (EPA-HQ-OPP-2005-0491), fluazifop-P-butyl (EPA-HQ-OPP-2004-0347), and triadimenol (EPA-HQ-OPP-2006-0038), at <http://www.regulations.gov> and REDs for soap salts (includes ammonium salts of higher fatty acids) and prometryn at <http://www.epa.gov/pesticides/reregistration/status.htm>.

The selection of an individual tolerance level is based on crop field residue studies designed to produce the maximum residues under the existing or proposed product label. Generally, the level selected for a tolerance is a value slightly above the maximum residue found in such studies, provided that the tolerance is safe. The evaluation of whether a tolerance is safe is a separate inquiry. EPA recommends the raising of a tolerance when data show that:

- Lawful use (sometimes through a label change) may result in a higher residue level on the commodity.
 - The tolerance remains safe, notwithstanding increased residue level allowed under the tolerance.
- In REDs, Chapter IV on "Risk Management, Reregistration, and Tolerance Reassessment" typically describes the regulatory position, FQPA assessment, cumulative safety determination, determination of safety for U.S. general population, and safety for infants and children. In particular, the human health risk assessment document which supports the RED describes risk exposure estimates and whether the Agency has concerns. In TREDs, the Agency discusses its evaluation of the dietary risk associated with the active ingredient and whether it can determine that there is a reasonable certainty (with appropriate mitigation) that no harm to any population subgroup will result from aggregate exposure. EPA also seeks to harmonize tolerances with international standards set by the Codex Alimentarius Commission, as described in Unit III.

Explanations for proposed modifications in tolerances and exemptions and/or establishments of tolerances and exemptions for bitertanol, coppers, malathion, pentachloronitrobenzene, prometryn, and sodium chlorate can be found in the RED and TRED document and in more detail in the Residue Chemistry Chapter document which supports the RED and TRED. Copies of the Residue Chemistry Chapter documents are found in the Administrative Record and electronic copies for bitertanol, coppers (included

in revised Human Health Chapter), malathion, pentachloronitrobenzene, and sodium chlorate (included in the HED Chapter of the RED) can be found under their respective public docket ID numbers, identified in Unit II.A. Electronic copies of support documents for soap salts (including the revised Human Health Assessment Scoping Document in Support of Registration Review) are available in public docket EPA-HQ-OPP-2008-0519. An electronic copy of the Residue Chemistry Chapter for prometryn is available in the public docket for this proposed rule. Electronic copies are available through EPA's electronic public docket and comment system, www.regulations.gov at <http://www.regulations.gov>. You may search for this proposed rule under docket ID number EPA-HQ-OPP-2009-0251, then click on that docket ID number to view its contents.

EPA has determined that the aggregate exposures and risks are not of concern for the above mentioned pesticide active ingredients based upon the data identified in the RED or TRED which lists the submitted studies that the Agency found acceptable.

EPA has found that the tolerances that are proposed in this document to be modified, are safe; i.e., that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C). (Note that changes to tolerance nomenclature do not constitute modifications of tolerances). These findings are discussed in detail in each RED or TRED. The references are available for inspection as described in this document under **SUPPLEMENTARY INFORMATION**.

In addition, EPA is proposing to revoke certain specific tolerances because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance to cover residues in or on imported commodities or legally treated domestic commodities.

1. *Ametryn*. In the **Federal Register** notice of December 19, 2007 (72 FR 71898) (FRL-8343-9), EPA issued a notice regarding EPA's announcement on the receipt of requests from the registrant to voluntarily cancel specific registrations, which would terminate the last ametryn uses for banana and sweet corn. EPA approved cancellation of the registration by issuing a cancellation order with the close of the comment period, made it effective on June 16, 2008, and permitted the registrant for the canceled registration to sell and distribute existing stocks until June 16, 2009. Also, EPA permitted persons other than the registrant to sell, distribute, and conforming to the EPA-approved label and labeling of the products, use existing ametryn pesticide stocks on banana and sweet corn until they are exhausted. The Agency believes that end users will have had sufficient time to exhaust those existing stocks and for ametryn treated banana and sweet corn commodities to have cleared the channels of trade by June 16, 2010. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.258(a) on banana; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; and corn, sweet, stover; each with an expiration/revocation date of June 16, 2010.

There are no Codex Maximum Residue Limits (MRLs) for ametryn.

2. *Amitraz*. EPA approved cancellation of the last registration for use of amitraz on pears by issuing a cancellation order on May 3, 2006 (71 FR 26083) (FRL-8059-5), and permitted the registrants for the canceled registrations to sell and distribute existing stocks for 18 months (i.e., until November 3, 2007). Also, EPA permitted persons other than the registrant to sell, distribute, and conforming to the EPA-approved label and labeling of the products, use existing amitraz pesticide stocks on pears until they are exhausted. The Agency believes that end users have had sufficient time to exhaust those existing stocks and for amitraz treated pear commodities to have cleared the channels of trade. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.287(a) on pear.

There are Codex MRLs for amitraz, including one on pome fruits at 0.5 milligrams/kilogram (mg/kg).

3. *Ammonium salts of higher fatty acids* (C_8 - C_{18} saturated; C_8 - C_{12} unsaturated). Currently, there is an exemption from a tolerance in 40 CFR 180.1284 for ammonium salts of higher fatty acids (C_8 - C_{18} saturated; C_8 - C_{12} unsaturated) residues in or on all food commodities when applied for the suppression and control of a wide

variety of grasses and weeds. However, since 1993, there are existing product labels for the ammonium salts with instructions for use in agricultural settings as a deer repellent to growing crops and orchards with fruit present. Ammonium salts of fatty acids (ammonium soap salts) have low acute toxicity by oral, dermal, or inhalation routes of exposure. Due to the lack of effects at high doses in the available studies, the nature of the fatty acids and their ubiquity in nature, and the unlikelihood of prolonged human exposure via the oral route due to the use patterns, the Agency continues to believe that it is appropriate to waive all generic mammalian toxicity data requirements for the soap salts. Therefore, the Agency determined that the introductory text in 40 CFR 180.1284 should be revised from its current form where it is limited to herbicide uses to be broad enough to cover all the use patterns that exist for currently registered products.

Consequently, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.1284 to read as follows:

"Ammonium salts of C_8 - C_{18} saturated and C_8 - C_{12} unsaturated higher fatty acids are exempted from the requirement of a tolerance for residues in or on all food commodities when used in accordance with good agricultural practice."

There are no Codex MRLs for soap salts, including ammonium soap salts.

4. *Bitertanol*, β -((1,1'-biphenyl)-4-yl oxy)- α -(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol. There have been no U.S. registrations for bitertanol, a fungicide, since 1992. Based on available foreign data that showed residues of bitertanol, β -((1,1'-biphenyl)-4-yl oxy)- α -(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol, as high as 0.76 parts per million (ppm) in or on the green peel and 0.36 ppm in or on the green fruit of treated unbagged bananas (washed and unwashed samples) at an exaggerated application rate of 2X (0.26 lb active ingredient per acre per application) the current application rate, the Agency believes residues would be as high as 0.38 ppm at the current application rate (0.13 pounds active ingredient per acre per application). Although intended for use on bagged bananas (where residues were <0.2 ppm) only, application to unbagged bananas may occur. Therefore, the Agency determined that the tolerance should be increased. It is the Agency's policy to harmonize its tolerances with the levels established by Codex provided that the Agency has sufficient

information to make a determination that the Codex MRLs meet FFDCA standards. Because the dietary exposure and risk are not of concern, the Agency determined that the U.S. tolerance for bitertanol residues on banana should be increased from 0.2 to 0.5 ppm to harmonize with the Codex MRL (0.5 mg/kg) on banana. Also, the existing paragraph in 40 CFR 180.457 should be designated paragraph (a) because other paragraphs need to be reserved. Therefore, EPA is proposing to revise the section heading from its chemical name to bitertanol and designate the existing introductory text as paragraph (a), add bitertanol as the name of the fungicide in the introductory text, and increase the import tolerance for bitertanol in 40 CFR 180.457(a) on banana to 0.5 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

In accordance with current Agency practice, EPA is proposing to revise 40 CFR 180.457 by adding paragraphs (b), (c), and (d), and reserving those paragraphs for tolerances with section 18 emergency exemptions, regional registrations, and indirect or inadvertent residues, respectively.

There are Codex MRLs for bitertanol, including one on banana at 0.5 mg/kg.

5. *Coppers*. Copper is a natural trace element that is essential for homeostasis in human health. As part of the reregistration process for copper, the Agency determined that all food use copper compounds should maintain their exemptions from the requirement of a tolerance in 40 CFR 180.1021. These exemptions are supported by the hazard assessment (based on available literature and studies there is no indication of systemic toxicity) as well as the exposure assessment (minimal contribution of copper in the diet from pesticidal use). In general, copper has moderate to low acute toxicity. Due to its ubiquitous nature, lack of systemic toxicity, homeostatic mechanisms in humans, and naturally occurring levels on raw agricultural commodities, the Agency does not expect residues from agricultural pesticide use to significantly contribute to the overall dietary intake of copper. Some copper compounds (copper ammonia complex, copper oxychloride, copper oxychloride sulfate, copper salts of fatty and rosin acids, and copper sulfate pentahydrate) have registered agricultural uses on food crops, and therefore should be included in 40 CFR 180.1021(b). Consequently, EPA is proposing to establish exemptions from the requirement of a

tolerance in 40 CFR 180.1021(b) for copper ammonia complex (CAS Reg. No. 16828-95-8), copper oxychloride (CAS Reg. No. 1332-65-6), copper oxychloride sulfate (CAS Reg. No. 8012-69-9), copper salts of fatty and rosin acids (CAS Reg. No. 9007-39-0), and copper sulfate pentahydrate (CAS Reg. No. 7758-99-8).

Also, copper oleate and copper linoleate have no active food use registrations in the United States, and therefore their tolerance exemptions in 40 CFR 180.1021(b) are no longer needed. On October 26, 1998 (63 FR 57062) (FRL-6035-8), in a batch final rule concerning several active ingredients, including copper linoleate and copper oleate, the Agency responded to public comments which requested that the exemptions when applied to growing crops not be revoked (e.g., if they covered copper salts of fatty and rosin acids), by not taking action on them at that time. However, since EPA is proposing to establish a tolerance exemption on copper salts of fatty and rosin acids, that comment is resolved. Therefore, EPA is proposing to revoke the tolerance exemptions in 40 CFR 180.1021(b) for copper linoleate and copper oleate.

Bordeaux mixture, copper-lime mixtures, copper sulfate basic, and cupric oxide are listed among the copper compounds in 40 CFR 180.1021(b) which are exempt from the requirement of a tolerance when applied as a fungicide to growing crops using good agricultural practices. Because Bordeaux mixture and copper-lime mixtures contain copper sulfate as the active ingredient, there is no reason for them to have separate tolerance exemptions since their use is covered by copper sulfate. Also, cupric oxide and copper oxychloride (CAS Reg. No. 1332-40-7), which is a synonym for basic copper chloride, have no active food use registrations in the United States, and therefore their tolerance exemptions are no longer needed and should be revoked. Therefore, EPA is proposing to revoke tolerance exemptions in 40 CFR 180.1021(b) for Bordeaux mixture, copper-lime mixtures, copper oxychloride (CAS Reg. No. 1332-40-7), and cupric oxide.

Although the copper RED recommended establishing tolerance exemptions in § 180.1021(b) for copper ammonium carbonate, and copper in the form of chelates of citrate and gluconate, none of these compounds currently has active registrations for application as a fungicide to growing crops and therefore, do not need tolerance exemptions.

Many food commodities not treated with copper have naturally-occurring levels of copper that are higher than those found in or on pears as a result of residues from treated wrappers. In addition, the Agency determined that toxicological data show that potential copper residue levels from the use of treated pear wrappers do not pose a significant risk to human health, and therefore, the tolerance in 40 CFR 180.136 at 3 ppm for residues of basic copper carbonate in or on pear from postharvest use is no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.136 for residues of the fungicide basic copper carbonate in or on pear from postharvest use of the chemical.

There is a tolerance in 40 CFR 180.538 at 1 ppm in water, potable for residues of copper resulting from use of the algicides or herbicides copper carbonate (malachite), copper sulfate, copper monoethanolamine, and copper triethanolamine to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water. However, potable water is regulated under the Safe Drinking Water Act, and the Office of Pesticide Programs in EPA no longer establishes water tolerances. Thus, this tolerance is no longer applicable to current regulations for managing copper residues in drinking water and should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.538 for residues of copper in potable water. The Office of Ground Water and Drinking Water sets drinking water standards and currently sets a Maximum Contaminant Level Goal (MCLG) of 1.3 ppm and an Action Level of 1.3 ppm for copper.

There are no Codex MRLs for coppers. 6. *Fluazifop-P-butyl*. There have been no active food-use registrations for use of fluazifop-P-butyl on spinach for more than 10 years; although there is currently one active non-food registration on spinach grown for seed production which prohibits treated seed from distribution for food or feed or portioned (e.g., seed screenings) for food or feed. Because there are no current active food-use registrations for use of fluazifop-P-butyl on spinach, the tolerance is no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.411(a) on spinach.

There are no Codex MRLs for fluazifop-P-butyl.

7. *Malathion*. Currently, tolerances for malathion are established in 40 CFR 180.111(a)(1) for residues of the insecticide malathion, *O,O*-dimethyl

dithiophosphate of diethyl mercaptosuccinate. Based on available plant metabolism data, the Agency determined that malathion residues of concern in plants should include its metabolite, malaaxon, *O,O*-dimethyl thiophosphate of diethyl mercaptosuccinate. However, in the malathion RED, many plant commodity tolerances are recommended to be decreased concomitant with product label changes to their use patterns. No mitigation is required to address either acute or chronic dietary risks from food alone. Acute dietary exposure from food alone are below the Agency's level of concern at the 99.9th percentile of exposure; i.e., exposure is 5% of the Acute Population Adjusted Dose (aPAD) for the U.S. population and 11% of aPAD for all infants (<1 year old), the most highly exposed population subgroup. Chronic dietary exposure from food alone are below the Agency's level of concern; i.e., exposure is <1% of the Chronic Population Adjusted Dose (cPAD) for the U.S. population and all population subgroups. Nevertheless, the available data submitted by the registrants and approved by the Agency and comments and feedback from the user community, and communication with USDA and the technical registrant (regarding EPA's screening-level ecological assessment that resulted in estimated acute risks to birds and mammals which only slightly exceeded the Agency's level of concern) supported many decreased plant tolerance levels associated with specific reductions to use pattern parameters which would need to appear on malathion product labels. These reductions may impact on reducing potential exposure of non-target terrestrial and aquatic organisms to malathion residues of concern. Because the Agency is still in the process of obtaining the needed amended malathion product labels, their associated plant tolerances will remain at their current level in 40 CFR 180.111(a)(1) under the existing tolerance expression there. When appropriate malathion product label changes for specific plant commodity uses are provided to and approved by the Agency, EPA expects to follow up and propose the recommended tolerance decreases in a future publication in the **Federal Register**.

In order to accommodate a proposed separation of plant and livestock tolerances, EPA is proposing to redesignate in 40 CFR 180.111 currently existing paragraphs (a)(2) through (a)(5) as paragraphs (a)(4) through (a)(7), respectively.

Because EPA expects certain product label changes will be submitted for its approval in the near future, the Agency will herein propose tolerance actions recommended in the malathion RED for increasing or establishing specific plant tolerances. Therefore, these tolerances should be separated from other plant tolerances and moved from 40 CFR 180.111(a)(1) into a proposed new 40 CFR 180.111(a)(2) with a new tolerance expression for the combined residues of malathion and malaoxon. Consequently, EPA is proposing to add a new 40 CFR 180.111(a)(2) with the introductory text containing the tolerance expression to read as follows: "Tolerances are established for the combined residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate) and its metabolite, malaoxon (*O,O*-dimethyl thiophosphate of diethyl mercaptosuccinate), in or on the following food commodities."

Based on dietary exposure to malathion, the Agency determined that neither malathion nor malaoxon residues were observed in eggs, milk, and animal tissues. However, active registrations with malathion use for direct animal treatment still exist and need to be amended. Furthermore, plant tolerances remaining in 40 CFR 180.111(a)(1) will be addressed in the near future and moved under the revised tolerance expression. Therefore, the current egg, milk, and livestock tolerances in 40 CFR 180.111(a)(1) should be separated from the plant tolerances and recodified in 40 CFR 180.111(a)(3). Consequently, EPA is proposing to recodify the tolerances on cattle, fat (PRE-S); cattle, meat (PRE-S); cattle, meat byproducts (PRE-S); goat, fat (PRE-S); goat, meat (PRE-S); goat, meat byproducts (PRE-S); hog, fat (PRE-S); hog, meat (PRE-S); hog, meat byproducts (PRE-S); horse, fat (PRE-S); horse, meat (PRE-S); horse, meat byproducts (PRE-S); poultry, fat (PRE-S); poultry, meat (PRE-S); poultry, meat byproducts (PRE-S); sheep, fat (PRE-S); sheep, meat (PRE-S); sheep, meat byproducts (PRE-S); milk, fat (from application to dairy cows) revised to milk, fat; and egg (from application to poultry) revised to egg; from 40 CFR 180.111(a)(1) to a proposed new paragraph (a)(3) and establish the introductory text containing the tolerance expression in newly added 40 CFR 180.111(a)(3) to read as follows: "Tolerances are established for residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate), in or on the following food commodities." Use of the parenthetical "(PRE-S)" was discontinued by the Agency in a final

rule published in the **Federal Register** on July 1, 2003 (68 FR 39429) (FRL-7308-9). Consequently, to comply with established Agency nomenclature, the prethetical will not be transferred to proposed § 180.111(a)(3).

EPA determined that data on wheat straw may be translated to barley straw, oat straw, and rye straw. Based on the translation of available field trial data from wheat straw that showed combined malathion residues of concern on wheat straw as high as 34.38 ppm, EPA determined that malathion registrations for barley straw, oat straw, rye straw, and wheat straw should specify for barley, rye, and wheat use a 12-hour Restricted Entry Interval (REI). For Non-ULV (Non-Ultra-Low-Volume) applications, the maximum application rate should specify pounds active ingredient per acre per application as 1.25 for barley and 1.0 for oats, rye, and wheat; a maximum number of applications per year as two for barley, oats, rye, and wheat, and a minimum retreatment interval of 7 days for barley, oats, rye, and wheat. For ULV (Ultra-Low-Volume) applications, the maximum application rate should specify 0.61 pounds active ingredient per acre per application for barley, oats, rye, and wheat; a maximum number of applications per year as one for rye and two for barley, oats, and wheat; and a minimum retreatment interval as 7 days for barley, oats, rye, and wheat. The Agency also determined that tolerances should be established for these straw commodities at 50 ppm. Therefore, EPA is proposing to establish tolerances in proposed 40 CFR 180.111(a)(2) at 50 ppm on barley, straw; oat, straw; rye, straw; and wheat, straw.

In addition, EPA determined that data on wheat forage may be translated to oat forage and rye forage. Based on the translation of available field trial data from wheat forage that showed combined malathion residues of concern on wheat forage as less than 2.35 ppm, EPA determined that malathion registrations for oat forage, rye forage, and wheat forage should specify for rye and wheat use a 12-hour REI. For Non-ULV applications, the maximum application rate should specify pounds of active ingredient per acre per application as 1.0 for oats, rye, and wheat; a maximum number of applications per year as two for oats, rye, and wheat, and a minimum retreatment interval of 7 days for oats, rye, and wheat. For ULV applications, the maximum application rate should specify 0.61 pounds active ingredient per acre per application for oats, rye, and wheat; a maximum number of applications per year as one for rye and

two for oats and wheat; and a minimum retreatment interval as 7 days for oats, rye, and wheat. The Agency also determined that tolerances should be established for these forage commodities at 4.0 ppm. Therefore, EPA is proposing to establish tolerances in proposed 40 CFR 180.111(a)(2) at 4.0 ppm on oat, forage; rye, forage; and wheat, forage.

Based on available field trial data that showed combined malathion residues of concern on field corn stover as high as 27.07 ppm, EPA determined that malathion registrations for field corn use should specify an REI of 72 hours for detasseling and 12 hours for all other activities. For Non-ULV applications, the maximum application rate should specify 1.0 pounds active ingredient per acre per application using ground equipment, a maximum of two foliar applications per year, a minimum retreatment interval of 7 days, and a 7-day PHI. For ULV applications, the maximum application rate should specify 0.61 pounds active ingredient per acre per application using aerial ULV equipment, a maximum of two foliar applications per year, a minimum retreatment interval of 7 days, and 7-day PHI. The Agency also determined that a tolerance should be established on corn, field, stover at 30.0 ppm. Therefore, EPA is proposing to establish a tolerance in proposed 40 CFR 180.111(a)(2) at 30.0 ppm on corn, field, stover.

Based on available field trial data that showed combined malathion residues of concern at less than the combined limit of quantitation (LOQ) (<0.1 ppm) on watercress, EPA determined that malathion registrations with Emulsifiable Concentrate (EC) formulation should specify for watercress use a maximum of five foliar applications per growing season at 1.25 pounds active ingredient (ai) per acre per application using ground equipment, with minimum retreatment interval of 3 days, and a 3-day PHI. The Agency also determined that a tolerance should be established for watercress at 0.2 ppm. Therefore, EPA is proposing to establish a tolerance in proposed 40 CFR 180.111(a)(2) at 0.2 ppm on watercress.

Based on available field trial data that showed combined malathion residues of concern on grass, forage and grass, hay as high as <190.2 ppm and 264 ppm respectively, EPA determined that malathion registrations for all pertinent EC formulations should specify for grass, forage and grass, hay use a maximum of one foliar application per growing season at 1.25 pounds active ingredient per acre per application using ground equipment with a 0-day

PHI, and for 9.79 lb/gal Ready-To-Use (RTU) formulations a maximum of one foliar application per growing season at 0.92 pounds active ingredient per acre per application using aerial ULV equipment with a 0-day PHI, and the tolerances on grass, forage and grass, hay in 40 CFR 180.111(a)(1) should be moved to proposed § 180.111(a)(2) and increased from 135 to 200 ppm and 135 to 270 ppm, respectively. Therefore, EPA is proposing to move the tolerances on grass, forage and grass, hay from 40 CFR 180.111(a)(1) to proposed § 180.111(a)(2) and increase them to 200 ppm and 270 ppm, respectively. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available field trial data that showed combined malathion residues of concern on cottonseed as high as 19.12 ppm, EPA determined that the tolerance on cotton, undelinted seed in 40 CFR 180.111(a)(1) should be moved to proposed § 180.111(a)(2) and increased from 2 to 20 ppm. Therefore, EPA is proposing to move the tolerance on cotton, undelinted seed from 40 CFR 180.111(a)(1) to proposed § 180.111(a)(2) and increase it to 20.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

In addition, EPA is proposing to revise commodity terminology to conform to current Agency practice in 40 CFR 180.111(a)(1) as follows: “beet (including tops)” to “beet, garden, roots” and “beet, garden, tops,” “clover” to “clover, forage” and “clover, hay,” “corn, forage” to “corn, field, forage” and “corn, sweet, forage,” “garlic” to “garlic, bulb,” “onion (including green onion)” to “onion, bulb” and “onion, green,” “orange, sweet” to “orange,” “rutabagas” to “rutabaga,” “sorghum, forage” to “sorghum, grain, forage,” “soybean (dry and succulent)” to “soybean, seed” and “soybean, vegetable, succulent,” “squash, summer and winter” to “squash, summer” and “squash, winter,” “sunflower, seed (Post-H)” to “sunflower, seed, postharvest,” “turnip (including tops)” to “turnip, roots” and “turnip, tops,” and “vegetables, leafy, except brassica, group 4” to “vegetable, leafy, except brassica, group 4.”

There are Codex MRLs for malathion, including one on cotton seed at 20 mg/kg.

8. *Mineral oil*. In the aliphatic solvents RED, which includes mineral oil and aliphatic petroleum

hydrocarbons, the Agency recommended revoking the tolerances in 40 CFR 180.149(a)(2) on corn, grain, postharvest and sorghum, grain, grain, postharvest because there are currently no active U.S. registrations for mineral oil use as an active ingredient on stored grain and none have existed since 1987; and therefore, the tolerances are no longer needed. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.149(a)(2) on corn, grain, postharvest and sorghum, grain, grain, postharvest. However, as per the RED, the current exemption from the requirement of a tolerance in 40 CFR 180.905 for petroleum oils, when applied to growing crops, in accordance with good agricultural practice, is being maintained. The Agency has no concerns for food uses of these mineral oils and aliphatic petroleum hydrocarbons, as a result of their use as an active ingredient. The acute and chronic oral toxicity of these materials is extremely low.

Also, given the proposed revocations in 40 CFR 180.149(a)(2), described herein, there is no longer a need for the list of characteristics for mineral oil in 40 CFR 180.149(a)(1). Therefore, EPA is proposing to remove 40 CFR 180.149 in its entirety.

There are no Codex MRLs for mineral oil.

9. *Pentachloronitrobenzene*.

Currently, tolerances for pentachloronitrobenzene (PCNB) in 40 CFR 180.291(a) are established for PCNB and tolerances in 40 CFR 180.291(b) are established for combined residues of PCNB and its metabolites pentachloroaniline (PCA) and methyl pentachlorophenyl sulfide (MPCPS). While there are currently 80 identified metabolites of PCNB, the Agency determined that for enforcement purposes that the residues of concern in primary and rotational crops and livestock are PCNB, PCA, and pentachlorothioanisole (PCTA, the IUPAC name for MPCPS). Therefore, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.291(a) to read as follows: “Tolerances are established for the combined residues of the fungicide pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA), and pentachlorothioanisole (PCTA), in or on the following food commodities.”

In accordance with current Agency practice, EPA is proposing to redesignate the regional tolerances from 40 CFR 180.291(b) as § 180.291(c), and revise the commodity terminology “mustard greens” to read “mustard, greens.” In addition, EPA is proposing

to revise the introductory text containing the tolerance expression in newly designated 40 CFR 180.291(c) to read as follows: “Tolerances with regional registrations, as defined in § 180.1(m), are established for the combined residues of the fungicide pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA), and pentachlorothioanisole (PCTA), in or on the following food commodities.”

Also, in accordance with current Agency practice, EPA is proposing to amend 40 CFR 180.291 by adding paragraphs (b) and (d), and reserving those paragraphs for tolerances with section 18 emergency exemptions, and indirect or inadvertent residues, respectively.

Based on available field trial data for seed treatment use that showed combined PCNB residues of concern as high as <0.015 ppm on soybean seed and forage, and <0.016 ppm for soybean hay, the Agency determined that tolerances should be established on soybean, seed; soybean, forage; and soybean, hay; each at 0.02 ppm. Therefore, EPA is proposing to establish tolerances in 40 CFR 180.291(a) on soybean, seed; soybean, forage; and soybean, hay; each at 0.02 ppm.

In addition, the Agency determined that the interim tolerances in 40 CFR 180.319 for PCNB on bean, broccoli, Brussels sprouts, cabbage, cauliflower, garlic, pepper, potato, and tomato at 0.1 ppm and peanut at 1.0 ppm should be converted to permanent tolerances for combined PCNB residues of concern in 40 CFR 180.291(a). Also, the Agency determined that the tolerances at 0.1 ppm on broccoli, Brussels sprouts, cabbage, and cauliflower should be combined into a crop subgroup tolerance (Brassica, head and stem, subgroup 5A at 0.1 ppm) and the tolerances at 0.1 ppm on pepper and tomato should be combined into a crop group tolerance (vegetable, fruiting, group 8 at 0.1 ppm). Therefore, EPA is proposing to revoke the interim tolerances in 180.319 on bean, broccoli, Brussels sprouts, cabbage, cauliflower, garlic, pepper, potato, and tomato at 0.1 ppm and peanut at 1.0 ppm. In addition, EPA is proposing to establish permanent tolerances in 180.291(a) at 0.1 ppm on bean; Brassica, head and stem, subgroup 5A; garlic, bulb; potato; and vegetable, fruiting, group 8, and at 1.0 ppm on peanut.

There are no Codex MRLs for PCNB.

10. *Prometryn*. There have been no active registrations for use of prometryn on corn since 1989, and therefore, the tolerance is no longer needed and should be revoked. Consequently, EPA

is proposing to revoke the tolerance in 40 CFR 180.222(a) on corn, grain.

Although no prometryn residue data are available for cotton gin byproducts, based on available prometryn residue data for cotton forage showing residues as high as 0.84 ppm for applications up to 1.5X and a cotton metabolism study, EPA determined that the tolerance on cotton, gin byproducts should be established at 1.0 ppm. Therefore, the Agency is proposing to establish a tolerance in 40 CFR 180.222(a) on cotton, gin byproducts at 1.0 ppm.

Available rotational field trials, where wheat and barley were rotated with prometryn-treated cotton (1X treatment), showed residues of prometryn as high as 0.13 ppm in five samples of forage and 0.09 ppm in two samples of straw from the rotated crops. The other 23 forage and 16 straw samples, and all 18 grain samples had non-detectable (<0.05 ppm) residues of prometryn. Based on the available rotational data, the Agency determined that a tolerance on small grains, forage and straw should be established at 0.3 ppm, with a 3-month plant back interval (PBI), under indirect or inadvertent residues because small grains are rotated with prometryn treated cotton and recommended it in the 1995 RED. However, the Agency's current practice is to list small grains with separate tolerances. Therefore, EPA is proposing to establish tolerances for indirect and inadvertent residues in a revised 40 CFR 180.222(d) on barley, forage; barley, straw; oat, forage; oat, straw; rye, forage, rye, straw; triticale, forage; triticale, straw; wheat, forage; and wheat, straw; each at 0.3 ppm. Also, because 40 CFR 180.222(d) is currently reserved, EPA is proposing to establish the introductory text as follows: "Tolerances are established for indirect or inadvertent residues of the herbicide prometryn, 2,4-bis(isopropylamino)-6-methylthio-s-triazine, in or on the following food commodities."

The Agency determined that the available rotational data on small grain forage could be translated to hay by using a dry-matter conversion; i.e., using a concentration factor of 2.9X based on the percentage of dry matter in barley hay to barley forage (88% to 30%). Based on the concentration factor of 2.9X, the Agency determined that a tolerance on small grains, hay should be established at 1.0 ppm under indirect or inadvertent residues because small grains are rotated with prometryn treated cotton and recommended it in the 1995 RED. However, the Agency's current practice is to list small grains with separate tolerances. Therefore, EPA is proposing to establish tolerances for indirect and inadvertent residues in

proposed 40 CFR 180.222(d) on barley, hay; oat, hay; rye, hay; triticale, hay; and wheat, hay; each at 1.0 ppm.

There are no Codex MRLs for prometryn.

11. *Sodium chlorate*. Flax straw is no longer considered to be a significant food/feed item by the Agency, and therefore is no longer regulated as a commodity in accordance with "Table 1. Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops," which is found in Residue Chemistry Test Guidelines OPPTS 860.1000, dated August 1996, available at <http://www.epa.gov/opptsfrs/home/guidelin.htm>. Consequently, the Agency has determined that a flax, straw exemption from a tolerance is no longer needed. Therefore, EPA is proposing to revoke the exemption from a tolerance in 40 CFR 180.1020(a) on flax, straw.

Because the only time-limited exemption from a tolerance in 40 CFR 180.1020(b) for section 18 emergency exemptions for use of sodium chlorate on wheat expired on December 31, 2006, EPA is proposing to remove § 180.1020(b) in its entirety and to redesignate 180.1020(a) as § 180.1020.

According to current Agency practice, EPA is proposing to revise the commodity terminology in newly designated § 180.1020 as follows: "beans, dry, edible" to "bean, dry, seed," "corn, fodder" to "corn, field, stover," "corn, pop, stover," and "corn, sweet, stover," "corn, forage" to "corn, field, forage," and "corn, sweet, forage," "corn, grain" to "corn, field, grain" and "corn, pop, grain," "cottonseed" to "cotton, undelinted seed," "flaxseed" to "flax, seed," "guar beans" to "guar, seed," "peas, southern" to "pea, southern," "peppers, chili" to "pepper, nonbell," "potatoes" to "potato," "rice" to "rice, grain," "safflower, grain" to "safflower, seed," "sorghum, grain" to "sorghum, grain, grain," "sorghum, fodder" to "sorghum, grain, stover," "sorghum, forage" to "sorghum, grain, forage" and "sorghum, forage, forage," "soybeans" to "soybean, seed," and "sunflower seed" to "sunflower, seed."

Based on available wheat field trial data that showed residues of sodium chlorate as high as <2 ppm on the surface of their outer hulls and rice without hulls data that showed no detectable residues (<1 ppm), EPA determined that registrations should specify for wheat use a maximum of one application per season at 6 pounds active ingredient per acre per application with a 3-day PHI and that no detectable residues (<1 ppm) are expected once the hulls are removed from wheat grain (either at harvest or during processing). Therefore, the

Agency believes that an exemption from the requirement of a tolerance is appropriate for wheat, grain.

Consequently, EPA is proposing to establish an exemption from a tolerance in newly designated 40 CFR 180.1020 on wheat, grain.

In addition, the Agency believes that the introductory text in newly designated 40 CFR 180.1020 should be revised to specify defoliant and desiccant use only and use on crops rather than raw agricultural commodities since it is registered for preharvest and foliar applications as a defoliant or desiccant. Consequently, EPA is proposing to revise the introductory text in newly designated 40 CFR 180.1020 to read as follows: "Sodium chlorate is exempted from the requirement of a tolerance for residues when used as a defoliant or desiccant in accordance with good agricultural practice on the following crops:"

There are no Codex MRLs for sodium chlorate.

12. *Triadimenol, Beta-(4-chlorophenoxy)-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol*. In the **Federal Register** notice of September 12, 2008 (73 FR 53007) (FRL-8380-7), EPA issued a notice regarding EPA's announcement on the receipt of requests from the registrant to voluntarily cancel specific triadimenol registrations and therefore terminate the last triadimenol uses for sorghum. EPA approved cancellation of the registrations by issuing letters as the final cancellation order with the close of the comment period, and made the last one for sorghum effective on March 11, 2009, and permitted the registrants for the canceled registrations to sell and distribute existing stocks until September 11, 2009. Also, EPA permitted persons other than the registrant to sell, distribute, and conforming to the EPA-approved label and labeling of the products, use existing triadimenol pesticide stocks on sorghum until they are exhausted. The Agency believes that end users will have had sufficient time to exhaust those existing stocks and for triadimenol treated sorghum commodities to have cleared the channels of trade by September 11, 2010. Therefore, EPA is proposing to revise the terminology in 40 CFR 180.450(a) for the term "sorghum, forage" to read "sorghum, grain, forage" and revoke the tolerances in 40 CFR 180.450 on "sorghum, grain, forage," "sorghum, grain, grain," and "sorghum, grain, stover," each with an "expiration/revocation" date of September 11, 2010. With these changes EPA is proposing to revise the commodity table in 40 CFR 180.450(a).

There are no Codex MRLs for triadimenol on sorghum.

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

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA of 1996, Public Law 104-170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FQPA. The safety finding determination is discussed in detail in each post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued REDs for ametryn, coppers, malathion, aliphatic solvents (mineral oil), pentachloronitrobenzene, prometryn, inorganic chlorates (sodium chlorate), and soap salts (includes ammonium salts of higher fatty acids), and TREDs for amitraz, bitertanol, fluazifop-P-butyl, and triadimenol. REDs and TREDs contain the Agency's evaluation of the database for these pesticides, including requirements for

additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and in REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of "reasonable certainty of no harm." However, tolerance revocations recommended in REDs and TREDs that are proposed in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as "import tolerances," are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the

estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). When considering this possibility, EPA can conclude that:

1. Finite residues will exist in meat, milk, poultry, and/or eggs.
2. There is a reasonable expectation that finite residues will exist.
3. There is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities (40 CFR 180.6(b) and (c)).

C. When Do These Actions Become Effective?

With the exception of certain tolerances for ametryn and triadimenol for which EPA is proposing specific expiration/revocation dates, the Agency is proposing that these revocations, modifications, establishments of tolerances/tolerance exemptions, and revisions of tolerance nomenclature become effective on the date of publication of the final rule in the **Federal Register**. With the exception of the proposed revocation of specific tolerances for ametryn and triadimenol, the Agency believes that existing stocks of pesticide products labeled for the

uses associated with the tolerances/ tolerance exemptions proposed for revocation have been completely exhausted and that treated commodities have cleared the channels of trade. EPA is proposing expiration/revocation dates of June 16, 2010 for ametryn tolerances on banana; corn, sweet, forage; corn, sweet, kernel plus cob with husks removed; and corn, sweet, stover; and September 11, 2010 for triadimenol tolerances on sorghum, grain, forage; sorghum, grain, grain; and sorghum, grain, stover. The Agency believes that these revocation dates allow users to exhaust stocks and allow sufficient time for passage of treated commodities through the channels of trade. However, if EPA is presented with information that existing stocks would still be available and that information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the proposed effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION**.

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(l)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and
2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

III. Are the Proposed Actions Consistent with International Obligations?

The tolerance actions in this proposal are not discriminatory and are designed to ensure that both domestically produced and imported foods meet the food safety standards established by FFDCA. The same food safety standards apply to domestically produced and imported foods.

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food

safety standards and agricultural practices. EPA considers the international Maximum Residue Limits (MRLs) established by the Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports the RED and TRED, as mentioned in Unit II.A. Specific tolerance actions in this proposed rule and how they compare to Codex MRLs (if any) are discussed in Unit II.A.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to establish tolerances under FFDCA section 408(e), and also modify and revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (e.g., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL-5753-1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed rule will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. In addition, the Agency has determined that this action will not have a 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, as specified in

Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This proposed rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This proposed rule will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: May 6, 2009.

Debra Edwards,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.111 is amended by revising the table in paragraph (a)(1), redesignating paragraphs (a)(2) through (a)(5) as paragraphs (a)(4) through (a)(7), respectively, and adding new paragraphs (a)(2) and (a)(3), and by revising newly designated paragraph (a)(6) to read as follows:

§180.111 Malathion; tolerances for residues.

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

Commodity	Parts per million
Alfalfa	135
Almond, hulls	50
Almond, postharvest	8
Apple	8
Apricot	8
Asparagus	8
Avocado	8
Barley, grain, postharvest	8
Bean	8
Beet, garden, roots	8
Beet, garden, tops	8
Beet, sugar, roots	1
Beet, sugar, tops	8
Blackberry	8
Blueberry	8
Boysenberry	8
Carrot, roots	8
Chayote, fruit	8
Chayote, roots	8
Cherry	8
Chestnut	1
Clover, forage	135
Clover, hay	135
Corn, field, forage	8
Corn, grain, postharvest	8
Corn, sweet, forage	8
Corn, sweet, kernel plus cob with husks removed	2
Cowpea, forage	135
Cowpea, hay	135
Cranberry	8
Cucumber	8
Currant	8
Date, dried fruit	8
Dewberry	8
Eggplant	8
Fig	8
Flax, seed	0.1
Garlic, bulb	8
Gooseberry	8
Grape	8
Grapefruit	8
Guava	8
Hazelnut	1
Hop, dried cones	1
Horseradish	8
Kumquat	8
Leek	8
Lemon	8
Lentil, seed	8
Lespedeza, hay	135
Lime	8
Loganberry	8
Lupin, seed	8
Mango	8
Melon	8
Mushroom	8
Nectarine	8
Nut, macadamia	1
Oat, grain, postharvest	8
Okra	8
Onion, bulb	8
Onion, green	8
Orange	8
Papaya	1
Parsnip	8
Passionfruit	8
Pea	8
Pea, field, hay	8
Pea, field, vines	8
Peach	8
Peanut, hay	135
Peanut, postharvest	8
Pear	8
Pecan	8
Pepper	8
Peppermint, tops	8
Pineapple	8
Plum	8
Plum, prune	8
Potato	8
Pumpkin	8
Quince	8
Radish	8
Raspberry	8
Rice, grain, postharvest	8
Rice, wild	8
Rutabaga	8
Rye, grain, postharvest	8
Safflower, seed	0.2
Salsify (including tops)	8
Shallot, bulb	8
Sorghum, grain, forage	8
Sorghum, grain, postharvest	8
Soybean, forage	135
Soybean, hay	135
Soybean, seed	8
Soybean, vegetable, succulent	8
Spearmint, tops	8
Squash, summer	8
Squash, winter	8
Strawberry	8
Sunflower, seed, postharvest	8
Sweet potato, roots	1
Tangerine	8
Tomato	8
Trefoil, forage	135
Trefoil, hay	135
Turnip, roots	8
Turnip, tops	8
Vegetable, brassica, leafy, group 5	8
Vegetable, leafy, except brassica, group 4	8
Vetch, hay	135
Walnut	8
Wheat, grain, postharvest	8

(2) Tolerances are established for the combined residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate) and its metabolite, malaaxon (*O,O*-dimethyl thiophosphate of diethyl mercaptosuccinate), in or on the following food commodities:

Commodity	Parts per million
Barley, straw	50
Corn, field, stover	30.0
Cotton, undelinted seed	20.0
Grass, forage	200
Grass, hay	270
Oat, forage	4.0
Oat straw	50
Rye, forage	4.0
Rye, straw	50
Watercress	0.2
Wheat, forage	4.0
Wheat, straw	50

(3) Tolerances are established for residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate), in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	4
Cattle, meat ¹	4
Cattle, meat byproducts ¹	4
Egg	0.1
Goat, fat	4
Goat, meat ¹	4
Goat, meat byproducts ¹	4
Hog, fat	4
Hog, meat ¹	4
Hog, meat byproducts ¹	4
Horse, fat	4
Horse, meat ¹	4
Horse, meat byproducts ¹	4
Milk, fat	0.5
Poultry, fat	4
Poultry, meat ¹	4
Poultry, meat byproducts ¹	4
Sheep, fat	4
Sheep, meat ¹	4
Sheep, meat byproducts ¹	4

¹The tolerance level shall not be exceeded in any cut of meat or in any meat byproducts from cattle, goat, hog, horse, poultry, or sheep.

* * * * *

(6) Malathion may be safely used for the control of insects during the drying of grape (raisins) in compliance with paragraph (a)(4) of this section by incorporation into paper trays in amounts not exceeding 100 milligrams per square foot.

* * * * *

\$180.136 [Removed]

3. Section 180.136 is removed.

\$180.149 [Removed]

4. Section 180.149 is removed.

5. Section 180.222 is amended by revising the table in paragraph (a), and by revising paragraph (d) to read as follows:

\$180.222 Prometryn; tolerances for residues.

(a) * * *

Commodity	Parts per million
Carrot, roots ¹	0.1
Celery	0.5
Cotton, gin byproducts	1.0
Cotton, undelinted seed	0.25
Pea, pigeon, seed	0.25

¹ There are no U.S. registrations as of April 10, 1998 for use on carrots.

* * * * *

(d) *Indirect or inadvertent residues.*

Tolerances are established for indirect or inadvertent residues of the herbicide prometryn, 2,4-bis(isopropylamino)-6-methylthio-s-triazine, in or on the following food commodities:

Commodity	Parts per million
Barley, forage	0.3
Barley, hay	1.0
Barley, straw	0.3
Oat, forage	0.3
Oat, hay	1.0
Oat, straw	0.3
Rye, forage	0.3
Rye, hay	1.0
Rye, straw	0.3
Triticale, forage	0.3
Triticale, hay	1.0
Triticale, straw	0.3
Wheat, forage	0.3
Wheat, hay	1.0
Wheat, straw	0.3

6. Section 180.258 is amended by revising the table in paragraph (a) to read as follows:

\$180.258 Ametryn; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/Revocation Date
Banana	0.25	6/16/10
Corn, field, forage	0.1	None
Corn, field, grain	0.05	None
Corn, field, stover	0.05	None
Corn, pop, grain	0.05	None
Corn, pop, stover	0.05	None
Corn, sweet, forage ..	0.5	6/16/10
Corn, sweet, kernel plus cob with husks removed	0.25	6/16/10
Corn, sweet, stover ..	0.5	6/16/10
Pineapple	0.05	None
Sugarcane, cane	0.05	None

* * * * *

\$180.287 [Amended]

7. Section 180.287 is amended by removing the entry for “pear” from the table in paragraph (a).

8. Section 180.291 is revised to read as follows:

\$180.291 Pentachloronitrobenzene; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the fungicide pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA), and pentachlorothioanisole (PCTA), in or on the following food commodities:

Commodity	Parts per million
Bean	0.1
Brassica, head and stem, subgroup 5A	0.1
Cotton, undelinted seed	0.1
Garlic, bulb	0.1
Peanut	1.0
Potato	0.1
Soybean, forage	0.02
Soybean, hay	0.02
Soybean, seed	0.02
Vegetable, fruiting, group 8	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* Tolerances with regional registrations, as defined in § 180.1(m), are established for the combined residues of the fungicide pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA), and pentachlorothioanisole (PCTA), in or on the following food commodities:

Commodity	Parts per million
Collards	0.2
Kale	0.2
Mustard, greens	0.2

(d) *Indirect or inadvertent residues.* [Reserved]

\$180.319 [Amended]

9. Section 180.319 is amended by removing the entire entry for “pentachloronitrobenzene” from the table.

\$180.411 [Amended]

10. Section 180.411 is amended by removing the entry for “spinach” from the table in paragraph (a).

11. Section 180.450 is amended by revising the table in paragraph (a) to read as follows:

§180.450 Beta-(4-Chlorophenoxy)-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/Revocation Date
Banana ¹	0.2	None
Barley, grain	0.05	None
Barley, straw	0.2	None
Corn, field, forage	0.05	None
Corn, field, grain	0.05	None
Corn, field, stover	0.05	None
Corn, pop, grain	0.05	None
Corn, pop, stover	0.05	None
Corn, sweet, forage	0.05	None
Corn, sweet, kernel plus cob with husks removed	0.05	None
Corn, sweet, stover	0.05	None
Cotton, undelinted seed	0.02	None
Oat, forage	2.5	None
Oat grain	0.05	None
Oat, straw	0.2	None
Rye, forage	2.5	None
Rye, grain	0.05	None
Rye, straw	0.1	None
Sorghum, grain, forage	0.05	9/11/10
Sorghum, grain, grain	0.01	9/11/10
Sorghum, grain, stover	0.01	9/11/10
Wheat, forage ...	2.5	None
Wheat, grain	0.05	None
Wheat, straw	0.2	None

¹ There are no U.S. registrations for banana (whole) as of September 22, 1993.

* * * * *

12. Section 180.457 is revised to read as follows:

§180.457 Bitertanol, tolerances for residues.

(a) A tolerance is established for the residues of the fungicide bitertanol, β-([1,1'-biphenyl]-4-yloxy)-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol in or on the following raw agricultural commodity:

Commodity	Parts per million
Banana	0.5

There are no U.S. registrations as of April 1, 1992.

(b) *Section 18 emergency exemptions.*

[Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.538 [Removed]

13. Section 180.538 is removed.

14. Section 180.1020 is revised to read as follows:

§180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

Sodium chlorate is exempted from the requirement of a tolerance for residues when used as a defoliant or desiccant in accordance with good agricultural practice on the following crops: bean, dry, seed; corn, field, forage; corn, field, grain; corn, field, stover; corn, pop, grain; corn, pop, stover; corn, sweet, forage; corn, sweet, stover; cotton, undelinted seed; flax, seed; guar, seed; pea, southern; pepper, nonbell; potato; rice, grain; rice, straw; safflower, seed; sorghum, forage, forage; sorghum, grain, forage; sorghum, grain, grain; sorghum, grain, stover; soybean, seed; sunflower, seed; and wheat, grain.

15. Section 180.1021 is amended by revising paragraph (b) to read as follows:

§180.1021 Copper; exemption from the requirement of a tolerance.

* * * * *

(b) The following copper compounds are exempt from the requirement of a tolerance when applied (primarily) as a fungicide to growing crops using good agricultural practices:

Copper compounds	CAS Reg. No.
Basic copper carbonate (malachite)	1184-64-1
Copper ammonia complex	16828-95-8
Copper ethylenediamine complex	13426-91-0
Copper hydroxide	20427-59-2
Copper octanoate	20543-04-8
Copper oxychloride	1332-65-6
Copper oxychloride sulfate	8012-69-9
Copper salts of fatty and rosin acids	9007-39-0
Copper sulfate basic	1344-73-6
Copper sulfate pentahydrate	7758-99-8
Cuprous oxide	1317-19-1

* * * * *

16. Section 180.1284 is revised to read as follows:

§180.1284 Ammonium salts of higher fatty acids (C₈-C₁₈ saturated; C₈-C₁₂ unsaturated); exemption from the requirement of a tolerance.

Ammonium salts of C₈-C₁₈ saturated and C₈-C₁₂ unsaturated higher fatty

acids are exempted from the requirement of a tolerance for residues in or on all food commodities when used in accordance with good agricultural practice.

[FR Doc. E9-11172 Filed 5-12-09; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R06-RCRA-2008-0755; FRL-8900-9]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Texas 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 the State of Texas. 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 to 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 then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by June 12, 2009.

ADDRESSES: Send written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, (6PD-O), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Texas during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone number (214) 665-8533; Texas

Commission on Environmental Quality (TCEQ), 12100 Park S. Circle, Austin TX 78753-3087, (512) 239-6079. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the immediate final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665-8533.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: April 22, 2009.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. E9-11189 Filed 5-12-09; 8:45 am]

BILLING CODE P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 95

[ET Docket No. 09-36, RM-11404; FCC 09-20]

Additional Spectrum for the Medical Device Radiocommunication Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission seeks comment on the feasibility of allowing up to 24 megahertz of spectrum in the 413-457 MHz band to be used on a secondary basis under the umbrella of the existing Medical Device Radiocommunication Service. This action reflects the Commission's ongoing effort to foster the development and deployment of advanced medical devices using wireless technologies that benefit the health and well-being of the American public.

DATES: Comments must be filed on or before August 11, 2009 and reply comments must be filed on or before September 10, 2009.

FOR FURTHER INFORMATION CONTACT: Gary Thayer, Office of Engineering and Technology, (202) 418-2290, e-mail: Gary.Thayer@fcc.gov, TTY (202) 418-2989.

ADDRESSES: You may submit comments, identified by ET Docket No. 09-36, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

www.fcc.gov/cgb/ecfs/. Follow the instructions for submitting comments.

- *E-mail:* [Optional: Include the E-mail address only if you plan to accept comments from the public]. Include the docket number(s) in the subject line of the message.

- *Mail:* [Optional: Include the mailing address for paper, disk, or CD-ROM submissions needed/requested by your Bureau or Office. Do not include the Office of the Secretary's mailing address here.]

- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket No. 09-36, FCC 09-20, adopted March 17, 2009, and released March 20, 2009. The full text of this document is available for public inspection and copying during regular business hours in the Commission's Reference Information Center, Portals II, 445 12th Street, SW., (Room CY-A257), Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room, CY-B402, Washington, DC 20554, telephone (202) 488-5300, facsimile (202) 488-5563 or via e-mail FCC@BCPIWEB.com. The full text may also be downloaded at: <http://www.fcc.gov>.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the

caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

People With Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Summary of Notice of Proposed Rulemaking

1. In this *Notice of Proposed Rule Making*, the Commission seeks comment on the feasibility of allowing up to 24 megahertz of spectrum in the

413–457 MHz band to be used on a secondary basis under the existing Medical Device Radiocommunication Service (MedRadio Service) framework in part 95 of the Commission's rules. This action is taken in response to a petition for rulemaking filed by Alfred Mann Foundation (Alfred Mann or AMF). Numerous commenters also support the general concept espoused by Alfred Mann of providing spectrum for use by advanced microstimulator devices that might service as artificial nervous systems for those suffering from a wide array of debilitating disorders or injuries.

2. This *Notice of Proposed Rule Making* also reflects the Commission's ongoing effort to foster the development and deployment of advanced medical devices using wireless technologies that benefit the health and well-being of the American public. For example, large numbers of Americans, including U.S. service men and women returning each year from military service, suffer from spinal cord injuries, traumatic brain injuries, strokes, and various neuromusculoskeletal disorders. For these persons, the prospect of recovering some degree of sensation, mobility, and other functions for paralyzed limbs and organs offers new hope for improved quality of life. Furthermore, these individuals could be provided with safer, less-invasive, and more effective treatment options as compared with existing wired therapeutic approaches.

3. In light of these potential health benefits, the Commission proposes in this *Notice of Proposed Rule Making* to provide access to spectrum for wireless micro-power networks that would be comprised of multiple networked implanted devices that employ wideband functional electrical stimulation techniques.

Frequency Allocation

4. The Commission concludes that the record supports its consideration of additional spectrum in the 413–457 MHz band for the MedRadio Service under part 95 of our rules. Accordingly, the Commission seeks comment on the suitability of four segments of the 413–457 MHz band (413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz) that Alfred Mann requested be made available for use by medical micro-power networks (MMN) or other similar bandwidth intensive medical implant networks that require a high degree of operational reliability.

5. In its petition for rulemaking, Alfred Mann argues that WMTS spectrum is unsuitable for wideband MMN devices because frequencies

above 470 MHz are outside the preferred range of spectrum for propagation of radiofrequency ("RF") signals within the human body. To explore this assertion more fully, the Commission invites commenters to address the validity of Alfred Mann's arguments above in support of permitting MMN operations in the specified segments of the 413–457 MHz band rather than in the other frequency bands, which Alfred Mann asserts are either unavailable or undesirable.

6. The Commission further notes that the 413–450 MHz band is presently used by federal agencies for land mobile radio and radar operations. The National Telecommunications and Information Administration (NTIA) has made available information that has been incorporated into ET Docket No. 09–36 which provides greater detail concerning federal operations in the band, as well as a discussion of technical issues related to electromagnetic compatibility between medical devices and federal systems in this band. The Commission observes that use of this band for non-Federal operations would require agreement with NTIA. To lay the groundwork for considering the ramifications of such a prospective agreement, the Commission proposes to allow MMNs to operate in this band on a secondary basis at 413–419 MHz, 426–432 MHz, and 438–444 MHz, subject to the further condition that harmful interference should not be caused to Federal operations in the band. The Commission further proposes to provide for such use by including a U.S. footnote to the Table of Allocations in part 2 of the rules for the specific band segments. It seeks comment on this approach. The Commission also seeks comment on allowing MMNs to operate in the 451–457 MHz band on a secondary basis by including a U.S. footnote to the Table of Allocations.

7. The Commission also seeks comment on whether permitting MMNs to operate in these bands would cause interference to incumbent users, as well as whether transmissions from incumbent stations could adversely affect the operation of such medical devices, possibly resulting in adverse effects to patients using the medical devices. Given the low transmitter power and duty cycle limits that would typically be used by either the implanted MMN device or the external MCU, the Commission states that it expects that the risk of interference from MMNs to incumbent operations in these frequency bands would be negligibly small. Because MMNs typically would be operating at much lower power than an incumbent station, the latter should

be able to overcome any interference received from any MMN device. The risk of interference to incumbent operations also would likely be mitigated by other factors such as separation distances from a MMN to an incumbent station, and only a small amount of energy from a wideband MMN would be received by a narrowband land mobile station. The Commission seeks comment on these observations as well as other factors that should be considered in assessing potential interference from MMNs to the incumbent systems. For example, given the potentially large number of implanted devices that a MMN might use, is there a potential for interference to incumbent systems from the simultaneous operation of multiple implanted devices?

8. Finally, the Commission seeks comment on whether allowing use of the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz frequency bands on a secondary basis for new MMN devices would be consistent with international spectrum allocations and operations. In this regard, the Commission observes that the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands are allocated to "mobile, except aeronautical mobile," services on a primary basis in all or substantial portions of the three International Telecommunication Union regions.

Service and Technical Rules

9. The Commission states that the central focus in this *Notice of Proposed Rule Making* is on MMNs that would be used to provide FES therapeutic treatment and the kinds of devices that would be part of these networks as described by Alfred Mann. Thus, the Commission invites comment on other types of functional electric stimulation (FES) applications that would be consistent with MMN operations and that would similarly require the wider emission bandwidth that might be accommodated in this spectrum, and which is not available in other spectrum currently identified for wireless medical devices. The Commission also notes that the AMF petition includes an appendix that sets forth one possible framework for the service and technical rules as a separate subpart of part 95 and invites comment on the suggestions in Alfred Mann's petition.

10. *Licensing.* The Commission seeks comment on whether the operation of MMN devices in the 413–457 MHz band should be authorized in the same manner as other medical devices in the MedRadio Service—namely, under part 95 of the rules, and thus providing for

license-by-rule operation pursuant to Section 307(e) of the Communications Act (Act).

11. The Commission further seeks comment on whether this license-by-rule framework would provide the most beneficial approach for MMN devices, but also asks whether other approaches would be preferable. If so, how would those alternative approaches be structured, and why? What would be the relative benefits and disadvantages compared with the license-by-rule approach?

12. *Definitions.* The Commission seeks comment on what definitions should be included in its rules for MMN medical devices operating in the 413–457 MHz band. In addition, the *Notice of Proposed Rule Making* proposes the following definitions:

- *Medical Micro-power Network (MMN):* An ultra-low power radio service for the transmission of non-voice data to and from medical implant devices for the purpose of facilitating functional electric stimulation and sensing, a technique using electric currents to activate and monitor nerves and muscles. A MMN is comprised of multiple medical implant devices under the control of a MMN control transmitter.

- *MMN control transmitter:* A MMN transmitter that operates or is designed to operate outside of a human body for the purpose of communicating with a receiver connected to a MMN implant device or to another MMN transmitter associated with a MMN implant device, and is sometimes referred to as a Master Control Unit (MCU).

- *MMN implant transmitter:* A MMN transmitter that operates or is designed to operate within a human body for the purpose of facilitating communication from a medical implant device.

- *MMN transmitter:* A transmitter authorized to operate as part of a MMN.

13. The Commission seeks comment on whether these definitions are suitable. Are they too broad or too narrow? Should alternative definitions be used? For example, should other components of wireless MMN networks also be identified and defined? would any current definitions included in the MedRadio Service rules need to be modified to accommodate wireless medical devices operating at 413–457 MHz?

14. *Permissible Communications and Operator Eligibility.* The Commission seeks comment on adopting requirements for permissible MMN communications and MMN operator eligibility that are generally the same as those in place for the MedRadio Service. For example, the existing MedRadio

rules provide that a medical implant device may be used by persons for diagnostic and therapeutic purposes, but only to the extent that such devices have been provided to a human patient under the direction of a duly authorized health care professional. Furthermore, transmissions are limited to non-voice data signals. In this *Notice of Proposed Rule Making*, the Commission states its belief that applying these same requirements would be central to maintaining the intended use of this spectrum primarily for devices that could serve as artificial nervous systems or components thereof. The Commission thus seeks comment on whether these same requirements would be appropriate for MMNs.

15. The Commission also notes that the present MedRadio Service rules do not allow medical implant programmer/control transmitters to relay information to a receiver that is not included with a medical implant device. However, it observes that the MedRadio Service rules do allow medical implant programmer/control transmitters to be interconnected with other telecommunications systems including the public switched telephone network. The Commission seeks comment on whether, and why, similar requirements should also apply to the proposed MMN operations.

16. The Commission seeks comment on whether implant-to-implant communication should be allowed, and whether there should be a requirement that each external master control unit (or MCU) must always control the transmitters implanted within a single patient. The Commission also asks several related questions. Should all implants in a single patient be controlled by a single MCU, thus comprising a single network, even if the implants control different functions within the patient? Or should implants that perform different functions within the patient be organized into separate networks, each controlled by its own MCU? Could one MCU control multiple implants in more than one patient? What would be the impact if multiple MCUs were to be used for a single patient?

Technical Rules

17. *Emission Bandwidth.* The Commission seeks comment on the maximum emission bandwidth that should be permitted for MMN devices. The Commission notes that each of the four segments of the 413–457 MHz band under consideration in this *Notice of Proposed Rule Making* for use by MMN devices occupies six megahertz of spectrum. Thus, it tentatively concludes

that specifying a maximum emission bandwidth of six megahertz would appear to be a reasonable option because it would be to allow each MMN device to fully utilize the available spectrum in each band segment. By comparison, however, Alfred Mann suggests limiting the maximum emission bandwidth of MMNs to approximately five megahertz. The Commission notes that a six megahertz maximum emission bandwidth would afford some degree of flexibility for manufacturers in identifying the center frequency of MMN transmissions but it also could have an adverse impact on spectrum use efficiency. Thus, in the alternative, the Commission seeks comment on whether an even smaller maximum emission bandwidth (e.g., three megahertz) would be sufficient for MMN purposes and might serve to further improve spectrum use efficiency. In this regard, the Commission asks commenters to address these questions in the context of the following expected operational needs of MMN devices: (1) To transmit large amounts of data necessary to perform complex biomedical functions; (2) to transmit heavily coded messages necessary to permit detection and correction of errors; and (3) to conserve battery power while minimizing the size of the battery and thus the size of the implantable microstimulator. Commenters are also invited to address the potential impact of any particular emission bandwidth with respect to the potential for increased or decreased compatibility with incumbent users.

18. *Channelization.* The Commission proposes to adopt rules that do not specify any particular channeling plan for MMN device operation, thereby following the approach used with the MedRadio Service. Under this approach, a “channel” would be loosely defined as the maximum bandwidth occupied by the transmissions from a MMN device in the course of a MMN communications session. The Commission seeks comment on whether the potential benefit of more efficient spectrum use under this approach would be outweighed by an increased risk of adverse mutual interactions between MMN devices using differing center frequencies and bandwidths. The Commission seeks comment on what other factors should be considered under this option, and whether other more specific channeling plans might be considered.

19. *Contention protocol requirement.* The Commission seeks comment on whether a contention protocol should be applied to MMN transmitting devices, and if so, how such a protocol might be

developed. In particular, it seeks comment on whether a contention protocol should be applied to MMN transmitting devices, and if so, how such a protocol might be developed. The Commission also invites comment on whether it should rely upon the general definition of *contention-based protocol* recently adopted by the Commission in another rulemaking proceeding for the operation of wireless devices under part 90 of the rules in the 3650 MHz band. Thus, the proposed definition would read as follows.

“Contention-based protocol. A protocol that allows multiple users to share the same spectrum by defining the events that must occur when two or more transmitters attempt to simultaneously access the same channel and establishing rules by which a transmitter provides reasonable opportunities for other transmitters to operate. Such a protocol may consist of procedures for initiating new transmissions, procedures for determining the state of the channel (available or unavailable), and procedures for managing retransmissions in the event of a busy channel.”

20. The Commission observes that, depending upon such factors as the transmit/receive reliability, or quality of service requirements of a particular use, a practical contention protocol could take a variety of forms, such as listen-before-talk (LBT) frequency monitoring, time slot synchronization, or frequency hopping among others. The system described by Alfred Mann in its petition, for example, appears to depend upon time slot sharing to avoid interference with individual microstimulator devices and associated device networks. The Commission seeks comment on the advantages and disadvantages of such an approach. Would a time slot synchronization protocol of this nature present compatibility issues with respect to other protocols that might be used by alternative MMN devices? Another option would be to follow the existing approach of the MedRadio service whereby the medical transmitting device must incorporate a LBT frequency monitoring mechanism to monitor the channel or channels that the medical device transmitters intend to occupy. The Commission notes that one potential benefit of this latter approach would be that the LBT protocol of the MedRadio Service is already clearly defined in the rules and appears to be successful in allowing a number of uncoordinated devices to share the same spectrum.

21. In this regard, The Commission encourages commenters to discuss what kinds of contention protocols should or should not be utilized, and seeks

detailed responses to the following questions. If implemented, how should such protocols be defined? Would the protocol be open-source or proprietary? Would more than one protocol be permitted? Should the same protocol be required for all devices, and how would this be accomplished? How should such protocols be established—by rule, by industry standard setting procedures, or other approaches? Would any of these protocols be expected to interact either favorably or adversely with incumbent users?

22. The Commission also seeks comment on the technical parameters associated with frequency monitoring protocols that can be used to facilitate sharing with the incumbent federal users. How should the frequency monitoring threshold power level be established? How should the minimum time for monitoring a channel for an incumbent signal be established? What effect will the different types of incumbent signals have on frequency monitoring capabilities? Once a channel is determined to be occupied by an incumbent should a minimum time be established before the channel can be monitored? Can a single frequency monitoring capability be implemented that can detect both pulsed radar signals and non-pulsed analog and digital land mobile radio signals?

23. *Transmitter power and duty cycle.* The Commission seeks comment on what measurement methods would be appropriate for establishing compliance with maximum EIRP limits for MMN devices. With respect to the potential for interference to federal operations, the Commission seeks specific comments on several issues: What, if any, duty cycle limits should be imposed; or would the inherent duty cycle characteristics of MMN devices be sufficient to minimize the potential for interference to those incumbent systems? In assessing the potential impact on incumbent systems, what other operational factors should be considered? Should there be an upper limit on the number of devices that might comprise a single MMN network, or should the individual EIRP of a significant number of devices be aggregated in some manner? Are there any other interference mitigation factors that should be considered in this regard?

24. With respect to the potential for interference to MMN devices from federal government operations, the Commission seeks specific comment on what interference mitigation techniques could be employed with a sufficiently high degree of confidence by systems using FES or other similar techniques.

The Commission states that it is particularly interested in comments relating to error detection and correction coding, dynamic channel switching, and spectral notching that could be used by MMN devices and whether any of these, or other such techniques, would be effective, either alone or in combination.

25. *Unwanted emissions.* The Commission observes that the existing MedRadio rules under part 95 set forth limits on unwanted emissions (including limits on both in-band and out-of-band radiation) from medical transmitting devices operating in the 401–406 MHz band. Following this framework, the Commission seeks comment on whether such limits should be applied to MMN devices operating in the 413–457 MHz band.

26. Under this approach, emissions 500 kHz or less above or below any particular authorized bandwidth must be attenuated by at least 20 dB below the transmitter output power. In addition, emissions more than 500 kHz outside of the authorized bandwidth must attenuated to a level no greater than the following signal strengths at 3 m: (a) Between 30–88 MHz, 100 μ V/m, (b) between 88–216 MHz, 150 μ V/m, (c) between 216–960 MHz, 200 μ V/m, and (d) 960 MHz and above, 500 μ V/m. The Commission seeks comment on the suitability of these proposed limits on out-of-band and spurious emissions and whether they would be adequate to protect incumbent operations, while fostering efficient spectrum use by MMN devices.

27. *Frequency stability.* The Commission seeks comment on whether each MMN transmitter should be required to maintain a frequency stability of ± 100 ppm of the operating frequency over the range: (1) 25 °C to 45 °C in the case of MMNS implant transmitters; and (2) 0 °C to 55 °C in the case of MMNS control transmitters.

28. *Antenna locations.* The Commission seeks comment on whether to require that no antenna for a MMN control transmitter may be configured for permanent outdoor use. Under such a provision, any MMN control transmitter used outdoors would not be allowed to be affixed to any structure for which the height to the tip of the antenna will exceed three (3) meters (9.8 feet) above ground. This would replicate the same requirement that applies to the MedRadio Service.

29. *RF safety.* In this proceeding, the Commission only seeks comment on whether MMN implant and control transmitters should be deemed as portable devices subject to Sections 2.1093 and 2.1307 of the existing rules.

The Commission notes that portable devices are subject to Section 2.1093 of the rules, pursuant to which an environmental assessment must be prepared under Section 1.1307. These rule sections also govern existing MedRadio devices. Devices covered by these rules are subject to routine environmental evaluation for RF exposure prior to equipment authorization of use.

Miscellaneous Provisions

30. Finally, the Commission seeks comment on various provisions regarding equipment certification, authorized locations, station identification, station inspection, disclosure policy, labeling requirements and marketing limitations that mirror the existing MedRadio rules.

31. *Equipment Certification.* First, the Commission seeks comment on whether it should require that each MMN transmitter authorized to operate in the 413–457 MHz band must be certificated except for such transmitters that are not marketed for use in the United States, but which otherwise comply with the applicable technical requirements and are operated in the United States by individuals who have traveled to the United States from abroad.

32. *Authorized Locations, Station Identification, and Inspections.* For authorized locations, the Commission seeks comment on whether it should require that operation would be authorized anywhere CB station operation is authorized under § 95.405. With respect to station identification, the Commission seeks comment on providing that a MMN station would not be required to transmit a station identification announcement. It also seeks comment on whether to provide that all non-implanted MMN transmitter apparatus be made available for inspection upon request by an authorized FCC representative. Under such a provision, persons operating implanted MNN transmitters would be required to cooperate reasonably with duly authorized FCC representatives in the resolution of interference. The Commission seeks comment on all of these options.

33. *Disclosure Statement.* The Commission seeks comment on whether to require that manufacturers of MMN transmitters include with each transmitting device the following disclosure statement: “This transmitter is authorized by rule under the MedRadio Service (47 CFR Part 95). This transmitter must not cause harmful interference to stations authorized to operate on a primary basis in the 413–419 MHz, 426–432 MHz, 438–444 MHz,

and 451–457 MHz bands, and must accept interference that may be caused by such stations, including interference that may cause undesired operation. This transmitter shall be used only in accordance with the FCC Rules governing the MedRadio Service. Analog and digital voice communications are prohibited. Although this transmitter has been approved by the Federal Communications Commission, there is no guarantee that it will not receive interference or that any particular transmission from this transmitter will be free from interference.” The Commission notes that this language tracks the existing MedRadio disclosure requirement.

34. *Labeling.* The Commission further seeks comment on whether to require that MMN control transmitters be labeled and shall bear the following statement in a conspicuous location on the device: “This device may not interfere with stations authorized to operate on a primary basis in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands, and must accept any interference received, including interference that may cause undesired operation.” Where a MMN control transmitter is constructed in two or more sections connected by wire and marketed together, the statement specified in this section would be required to be affixed only to the main control unit. The Commission also seeks comment on whether to require that MMN implant transmitters be identified with a serial number. Under that plan, the Commission would allow the FCC ID number associated with the transmitter and the information required by § 2.925 of the FCC rules to be placed in the instruction manual for the transmitter in lieu of being placed directly on the transmitter.

35. *Marketing Limitations.* Finally, with respect to marketing limitations, the Commission seeks comment on requiring that MMN transmitters intended for operation in any portions of the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands may be marketed and sold only for those permissible uses.

Initial Regulatory Flexibility Analysis

36. As required by the Regulatory Flexibility Act (RFA),¹ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic

¹ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Public Law 104–121, Title II, 110 Stat. 857 (1996).

impact on small entities by the policies and rules proposed in this Notice of Proposed Rule Making (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in paragraph 60 of this NPRM. The Commission will send a copy of this NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).²

A. Need for, and Objectives of, the Proposed Rules

37. The Commission seeks comment on the feasibility of allowing up to 24 megahertz of spectrum in the 413–457 MHz band to be used on a secondary basis under the Medical Device Radiocommunication Service (MedRadio Service) in Part 95 of the Commission’s rules. The Commission takes this action in response to a petition for rulemaking filed by Alfred Mann Foundation (Alfred Mann or AMF) and numerous supportive comments concerning groundbreaking advances in implantable neuromuscular microstimulation devices using wireless technologies.³ As described by Alfred Mann, a number of these implanted devices could be surgically injected in a patient and configured along with an external control unit to function as a wideband medical micro-power network—or MMN. MMNs using functional electric stimulation (or FES) techniques could serve as an artificial nervous system to restore sensation, mobility, and function to paralyzed limbs and organs.

B. Legal Basis

38. The proposed action is authorized under Sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as

² See 5 U.S.C. 603(a).

³ See “Amendment of Parts 2 and 95 of the Commission’s Rules to Establish the Medical Micropower Network Service in the 413–457 MHz band”, Petition for Rulemaking, filed September 5, 2007, by Alfred Mann Foundation, placed on *Public Notice* for comment October 3, 2007, (Report No. 2835; RM–11404) (*AMF Petition*). See also “Investigation of the Spectrum Requirements for Advanced Medical Technologies, ET Docket No. 06–135; Amendment of Parts 2 and 95 of the Commission’s Rules to Establish the Medical Device Radiocommunication Service at 401–402 and 405–406 MHz, RM–11271; DexCom, Inc., Request for Waiver of the Frequency Monitoring Requirements of the Medical Implant Communications Service Rules, ET Docket No. 05–213; Biotronik, Inc., Request for Waiver of the Frequency Monitoring Requirements of the Medical Implant Communications Service Rules, ET Docket No. 03–92, *Report and Order*, adopted March 19, 2009, released March 20, 2009, FCC 09–23. (setting forth rules for the MedRadio Service).

amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

39. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.⁴ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”⁵ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁶ A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁷

40. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.⁸ A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”⁹ Nationwide, as of 2002, there were approximately 1.6 million small organizations.¹⁰ The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”¹¹ Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States.¹² We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.”¹³ Thus,

we estimate that most governmental jurisdictions are small.

41. *Personal Radio Services.* The Medical Device Radio Communications Services are being placed within part 95 of our rules (“Personal Radio Services”). Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under part 95 of our rules and covers a broad range of uses.¹⁴ Many of the licensees in these services are individuals, and thus are not small entities. In addition, due to the fact that licensing of operation under part 95 is accomplished by rule (rather than by issuance of individual license), and due to the shared nature of the spectrum utilized by some of these services, the Commission lacks direct information other than the census data above, upon which to base an estimation of the number of small entities under an SBA definition that might be directly affected by the proposed rules.

42. The Commission does note, however, that the designation for the two megahertz of spectrum for the Medical Device Radio Communications Service would be limited to use by medical implant and body-worn medical devices and, thus, would not be shared with other non-Federal Governmental uses. To date, there are only a small number of manufacturers (i.e., less than ten—maybe five or so) that produce these devices, and FDA approval must be secured before such devices are brought to market. Due to the stringent FDA approval requirements, the small number of existing medical device manufacturers tends to focus very narrowly on this highly specialized market niche.

43. *Wireless Communications Equipment Manufacturers.* The Census Bureau does not have a category specific to medical device radiocommunication manufacturing. The appropriate category is that for wireless communications equipment manufacturers. The Census Bureau defines this category as follows: “This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers,

number of county, municipal, and township governments nationwide was 38,967, of which 35,819 were small. *Id.*

¹⁴ 47 CFR Part 90.

cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.” The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: All such firms having 750 or fewer employees.¹⁵ According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.¹⁶

44. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of “Paging”¹⁷ and “Cellular and Other Wireless Telecommunications.”¹⁸ Under both categories, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year.¹⁹ Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more.²⁰ Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year.²¹ Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more.²² Thus, under this second

⁴ 5 U.S.C. 603(b)(3).

⁵ 5 U.S.C. 601(6).

⁶ 5 U.S.C. 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. 601(3).

⁷ Small Business Act, 15 U.S.C. 632 (1996).

⁸ See SBA, Programs and Services, SBA Pamphlet No. CO-0028, at page 40 (July 2002).

⁹ 5 U.S.C. 601(4).

¹⁰ Independent Sector, The New Nonprofit Almanac & Desk Reference (2002).

¹¹ 5 U.S.C. 601(5).

¹² U.S. Census Bureau, Statistical Abstract of the United States: 2006, Section 8, page 272, Table 415.

¹³ We assume that the villages, school districts, and special districts are small, and total 48,558. See U.S. Census Bureau, Statistical Abstract of the United States: 2006, section 8, page 273, Table 417. For 2002, Census Bureau data indicate that the total

¹⁵ NAICS code 334220.

¹⁶ NAICS code 11210.

¹⁷ 13 CFR 121.201, NAICS code 517211.

¹⁸ 13 CFR 121.201, NAICS code 517212.

¹⁹ U.S. Census Bureau, 2002 Economic Census, Subject Series: “Information,” Table 5, Employment Size of Firms for the United States: 2002, NAICS code 517211 (issued Nov. 2005).

²⁰ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

²¹ U.S. Census Bureau, 2002 Economic Census, Subject Series: “Information,” Table 5, Employment Size of Firms for the United States: 2002, NAICS code 517212 (issued Nov. 2005).

²² *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with “1000 employees or more.”

category and size standard, the majority of firms can, again, be considered small.

45. *Public Safety Radio Services.*

Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.²³ For small businesses in this category, the above small business size standard applies to 1500 or fewer employees. There are a total of approximately 127,540 licensees in these services. Governmental entities²⁴ as well as private businesses comprise the licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity.²⁵

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

46. The Commission seeks comment on whether medical device operations in the 413–457 MHz band should be authorized, like other medical devices in the MedRadio Service under part 95 of its rules, thus providing for license-by-rule operation²⁶ pursuant to Section 307(e) of the Communications Act (Act).²⁷ Under this approach, medical

devices would operate in the band on a shared, non-exclusive basis with respect to each other. As the Commission determined when it adopted the MedRadio Service rules, it continues to believe that this approach minimizes regulatory burdens and facilitates the expeditious deployment of new generations of beneficial wireless medical devices that can improve the quality of life for countless Americans, thus serving the public interest, convenience and necessity.

47. The Commission also seeks comment on whether this license-by-rule framework would provide the most beneficial approach for MMN devices. Would other approaches be preferable? If so, how would those alternative approaches be structured, and why? What would be the relative benefits and disadvantages compared with the license-by-rule approach?

48. The Commission also seeks comment on various provisions regarding equipment certification, authorized locations, station identification, station inspection, disclosure policy, labeling requirements and marketing limitations that mirror the existing MedRadio rules.

49. The Commission seeks comment on whether to require that manufacturers of MMN transmitters include with each transmitting device the following disclosure statement: “This transmitter is authorized by rule under the MedRadio Service (47 CFR part 95). This transmitter must not cause harmful interference to stations authorized to operate on a primary basis in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands, and must accept interference that may be caused by such stations, including interference that may cause undesired operation. This transmitter shall be used only in accordance with the FCC Rules governing the MedRadio Service. Analog and digital voice communications are prohibited. Although this transmitter has been approved by the Federal Communications Commission, there is no guarantee that it will not receive interference or that any particular transmission from this transmitter will be free from interference.” The Commission seeks comment on this language, which mirrors the existing MedRadio requirement.

Commission determines that such authorization serves the public interest, convenience, and necessity. The services set forth in this provision for which the Commission may authorize operation by rule include: (1) The Citizens Band Radio Service, (2) the Radio Control Service, (3) the Aviation Radio Service, and (4) the Maritime Radio Service. See 47 USC Section 307(e)(1).

50. The Commission also seeks comment on whether to require that MMN control transmitters be labeled and shall bear the following statement in a conspicuous location on the device: “This device may not interfere with stations authorized to operate on a primary basis in the 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz bands, and must accept any interference received, including interference that may cause undesired operation.” Where a MMN control transmitter is constructed in two or more sections connected by wire and marketed together, the statement specified in this section would be required to be affixed only to the main control unit. It also seeks comment on whether to require that MMN implant transmitters be identified with a serial number. Under that plan, we would allow the FCC ID number associated with the transmitter and the information required by § 2.925 of the FCC Rules to be placed in the instruction manual for the transmitter in lieu of being placed directly on the transmitter.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

51. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.²⁸

52. In this proceeding, the Commission notes that the “license by rule” approach of the MedRadio service (and the related equipment certification, disclosure, and labeling requirements discussed above) that it proposes here for MMN operation already afford the benefit of minimal regulatory and economic impact on prospective users, including small entities. Nevertheless, in this Notice of Proposed Rulemaking, the Commission seeks further comment on whether the existing MedRadio regulatory framework should be retained, or whether any other approaches should be considered.

²⁸ See 5 U.S.C. 603(c).

²³ With the exception of the special emergency service, these services are governed by Subpart B of part 90 of the Commission’s Rules, 47 CFR 90.15–90.27. The police service includes approximately 27,000 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes approximately 23,000 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of approximately 41,000 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are approximately 7,000 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The approximately 9,000 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The approximately 1,000 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 CFR 90.15–90.27. The approximately 20,000 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 CFR 90.33–90.55.

²⁴ 47 CFR 1.1162.

²⁵ 5 U.S.C. 601(5).

²⁶ See 47 CFR 95.401(d).

²⁷ Under Section 307(e) of the Act, the Commission may authorize the operation of radio stations by rule without individual licenses in certain specified radio services when the

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

53. None.

Ordering Clauses

54. Pursuant to Sections 4(i), 301, 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 301, 302, 303(e), 303(f) and 303(r), this *Notice of Proposed Rule Making* is adopted.

55. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rule Making*, including the Initial Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9-11066 Filed 5-12-09; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MB Docket No. 09-52; FCC 09-30]

Policies To Promote Rural Radio Service and To Streamline Allotment and Assignment Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: In this document, the Commission adopted a Notice of Proposed Rulemaking (NPRM), seeking comment on a number of procedures designed to streamline the process of allocating new FM channels and AM frequency assignments, with an emphasis on encouraging policies that foster new and modified channel assignments favoring smaller communities, rural areas, and Native American and Alaska Native tribal areas. The Commission proposes a number of rule and procedural changes addressing channel assignment and allotment priorities under Section 307(b) of the Communications Act of 1934, as amended, including proposing a new priority for Native American and Alaska Native tribes and their members seeking to provide new radio service to tribal lands. The Commission also proposes a number of smaller but significant procedural changes designed to make the allotment and assignment of radio channels more efficient.

DATES: Comments may be filed no later than July 13, 2009 and reply comments may be filed no later than August 11, 2009. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB) and other interested parties on or before July 13, 2009.

ADDRESSES: You may submit comments, identified by MB Docket No. 09-52, by any of the following methods:

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

- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

- *E-mail:* ecfs@fcc.gov. Include the docket number in the subject line of the message. See the **SUPPLEMENTARY INFORMATION** section of this document for detailed information on how to submit comments by e-mail.

- *Mail:* 445 12th Street, SW., Washington, DC 20554.

- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Peter Doyle, Chief, Media Bureau, Audio Division, (202) 418-2700; Thomas Nessinger, Attorney-Advisor, Media Bureau, Audio Division, (202) 418-2700.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at 202-418-2918, or via the Internet at Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 09-30, adopted April 7, 2009, and released April 20, 2009.

Initial Paperwork Reduction Act of 1995 Analysis

This NPRM contains proposed information collection requirements. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, 109 Stat 163 (1995). The Commission, as part of its

continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the proposed information collection requirements contained in this NPRM, as required by the PRA. Public and agency comments on the PRA proposed information collection requirements are due July 13, 2009. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, 116 Stat 729 (2002), see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

The following existing information collection requirements would be modified if the proposed rules contained in the NPRM are adopted.

OMB Control Number: 3060-0996.

Title: AM Auction Section 307(b) Submissions.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, local or Tribal government.

Estimated Number of Respondents and Responses: 153 respondents; 153 responses.

Estimated Time per Response: 0.5 hours to 3 hours.

Frequency of Response: On occasion reporting requirement.

Estimated Total Annual Burden: 354 hours.

Estimated Total Annual Costs: \$43,050.00.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i), 307(b) and 309 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Applicants in AM broadcast filing windows whose

applications are mutually exclusive with other filing window applications must submit information addressing how their applications comport with the fair, efficient, and equitable distribution of radio service pursuant to section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. 307(b)) ("Section 307(b)"). In the Notice of Proposed Rule Making in Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures, MB Docket No. 09–52, FCC 09–30, the Commission proposes allowing applicants to calculate a Service Value Index ("SVI"), which FM commercial allotment proponents may already submit, as a way of demonstrating that their AM proposal merits a dispositive Section 307(b) preference, or to demonstrate that an AM proposal would provide third, fourth, or fifth reception service to a significant population, both under the "other public interest matters" priority in a Section 307(b) analysis. The Commission also proposes adding a new Section 307(b) priority that would apply only to Native American and Alaska Native tribes and tribal consortia and their members, proposing to serve tribal lands. The priority is only available when all of the following conditions are met: (1) The applicant is either a federally recognized Tribe or tribal consortium, a member of a Tribe, or an entity more than 70 percent owned or controlled by members of a Tribe or Tribes; (2) at least 50 percent of the daytime principal community contour of the proposed facilities will cover tribal lands, in addition to meeting all other Commission technical standards; and (3) the applicant must propose at least first local transmission service to the proposed community of license, which must be located on tribal lands. Applicants claiming Section 307(b) preferences using these factors will submit information to substantiate their claims.

OMB Control Number: 3060–0029.

Title: Application for TV Broadcast Station License, Form FCC 302–TV; Application for DTV Broadcast Station License, FCC Form 302–DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349; Section 47 CFR 73.626.

Form Number: FCC Forms 302–TV, 302–DTV, 340, and 349.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; not-for-profit institutions; State, local or Tribal Government.

Estimated Number of Respondents and Responses: 4,480 respondents; 6,480 responses.

Estimated Time per Response: 1 hour to 5 hours.

Frequency of Response: On occasion reporting requirement; recordkeeping requirement; third party disclosure requirement.

Estimated Total Annual Burden: 15,725 hours.

Estimated Total Annual Costs: \$22,660,540.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: FCC Form 340 and the applicable exhibits/explanations are required to be filed when applying for consent for a new reserved band noncommercial educational ("NCE") FM broadcast station construction permit. On April 8, 2009, the Commission adopted a Notice of Proposed Rule Making in the Matter of Policies to Promote Rural Radio Service and to Streamline Allotment, and Assignment Policies, MB Docket No. 09–52, FCC 09–30 (released Apr. 20, 2009). In this Notice of Proposed Rule Making, the Commission proposes a number of changes to its policies and procedures in comparing mutually exclusive applications pursuant to Section 307(b). Among those changes is a new priority directed toward federally recognized Native American and Alaska Native tribes and tribal consortia. Under the new priority, a Section 307(b) priority would apply to an applicant meeting all of the following criteria: (1) The applicant is either a federally recognized Tribe or tribal consortium, a member of a Tribe, or an entity more than 70 percent owned or controlled by members of a Tribe or Tribes; (2) at least 50 percent of the daytime principal community contour of the proposed facilities covers tribal lands, in addition to meeting all other Commission technical standards; and (3) the applicant proposes at least first local transmission service to the proposed community of license, which must be located on tribal lands. For tribal applicants seeking an NCE FM station in the reserved band, the proposed tribal priority would apply, if applicable,

before the fair distribution analysis currently used by noncommercial educational applicants. Comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Cathy Williams, Federal Communications Commission, 445 12th St., SW., Room 1–C823, Washington, DC 20554, or via the Internet at Cathy.Williams@fcc.gov or PRA@fcc.gov; and also to Nicholas A. Fraser of the Office of Management and Budget (OMB), via Internet at Nicholas_A_Fraser@omb.eop.gov or via fax at (202) 395–5167.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR."

Summary of Notice of Proposed Rule Making

1. In the ten years that the Commission has been awarding commercial broadcast station construction permits by means of competitive bidding procedures, it has noted some shortcomings in its procedures for the allotment and assignment of broadcast frequencies. The Commission believes it appropriate to consider rule and procedural changes that would better encourage the fair distribution of broadcast licenses, particularly in smaller communities, rural areas, and tribal areas, afford greater opportunities to participate in competitive bidding, promote the filing of technically sound applications, and deter speculation in broadcast permit applications. The Commission also proposes to modify the noncommercial educational ("NCE") fair distribution comparative criterion by establishing a tribal priority.

2. In the NPRM, first, the Commission seeks comment on a proposal to modify the way in which proposals for new FM commercial allotments and AM channel assignments are evaluated for the fair, efficient, and equitable distribution of radio service under Section 307(b).

Currently, the Section 307(b) analysis is performed using four priorities established by the Commission in 1982. These are (1) Provision of first fulltime aural (reception) service; (2) provision of second fulltime aural (reception) service; (3) provision of first local transmission service; and (4) other public interest matters. Priorities (2) and (3) are co-equal. The Commission observes that Priority (1) and (2) claims are rare, and that its current procedures in this regard tend to favor large cities and Urbanized Areas that already receive abundant radio broadcast service. The NPRM tentatively concludes that in most instances, Priority (3) preferences should not be awarded where the proposed new station would or could place a principal community signal over the majority of an Urbanized Area. In addition, the Commission tentatively concludes that dispositive Section 307(b) preferences under Priority (4) should only be awarded to an AM new station or major change applicant in rare and exceptional circumstances, and that a dispositive preference would not be appropriate in other Priority (4) AM application cases. The Commission also tentatively concludes that that any new station proposal that would be located within an Urbanized Area or would place a daytime principal community signal over 50 percent or more of an Urbanized Area, or that could be modified to provide such coverage based on existing spectrum availability or rule-compliant power or pattern modifications from a site covering the same proposed community of license, should be deemed a proposal to serve the Urbanized Area rather than the proposed community. In such an instance, absent effective rebuttal of the presumption, the Commission would not award a Priority (3) dispositive preference. The Commission seeks comment on this proposal, and specifically as to any factors that should serve to rebut the presumption that an applicant proposes to serve the Urbanized Area rather than the proposed community of license. Also, given the proposed shift in emphasis to Urbanized Area coverage as the principal factor in determining whether an applicant may claim a Priority (3) preference, the Commission seeks comment on whether there remains any viability in the eight-factor analysis of independence vs. interdependence of a community with an Urbanized Area, first proposed in *Faye and Richard Tuck*, 3 FCC Rcd 5374, 5376 (1988).

3. The NPRM also proposes certain changes in the Priority (4) "other public

interest matters" analysis. As a threshold matter, the Commission seeks comment as to whether, in the AM licensing process, it should cease awarding dispositive Section 307(b) preferences based on a Priority (4) analysis when comparing new AM proposals. If an applicant cannot qualify for a dispositive Section 307(b) preference under Priorities (1)–(3), should the staff then determine that no Section 307(b) preference is appropriate, and the mutually exclusive engineering proposals proceed to competitive bidding procedures? In the alternative, the Commission asks whether it should permit dispositive Priority (4) findings in very narrowly defined circumstances with respect to such mutually exclusive applications. For example, should Priority (4) analysis be confined to situations in which either existing transmission or reception services to the proposed community or service area fall below a service level "floor?" The Commission tentatively concludes that where 75 percent or more of the population within a proposed new station's principal community contour (5 mV/m) already receives more than five aural services, and where the proposed community of license already has more than five transmission services, no dispositive Section 307(b) preference should be awarded to that applicant. If an applicant's proposal falls below these floors, it would then proceed to a Section 307(b) analysis that would differ from current practice. The Commission seeks comment on these proposals, and in particular on the proposed 75 percent threshold. The Commission further seeks comment on ways in which a Priority (4) analysis in the FM allocations process could or should be modified to de-emphasize service population totals, to alleviate the problem of unduly advantaging proposals for new FM allotments in or near large communities. The Commission seeks comment as to whether there are other factors that would more accurately reflect the need for new FM service.

4. The Commission further seeks comment on other modifications to a Priority (4) Section 307(b) analysis that would serve to level the playing field between proposals to serve larger and more populous communities and those to serve smaller communities and rural areas. The Commission has modified the comparison of raw population totals, in the FM allocations context, by permitting the computation of a "service value index." Essentially, the service value index ("SVI") is a method of discounting raw population totals based

on the number of services received, enabling the proponent to claim that its application would better serve the public interest by serving underserved areas. The SVI was first proposed in *Greenup, Kentucky and Athens, Ohio*, 6 FCC Rcd 1493, 1495 (1991). SVI is computed by dividing the proposed service area into "pockets" of population based on the number of aural services received in each pocket. The population within each pocket is divided by the number of aural services received, and the results for each pocket are then added together. In the FM allocations context, the applicant proposing the higher SVI receives an allotment. The Commission seeks comment on whether this method could prove useful in comparing proposals for new AM service as well. The Commission notes that, in *Greenup*, a difference in SVI of 18.8 percent was found to be dispositive. Because a comparison of competing FM allotment proposals must arrive at a clear winner, however, the Commission proposes that a substantially higher SVI differential, of at least 50 percent, should be required before a dispositive preference should be awarded to an AM applicant proposing new service. If AM applications do not demonstrate a sufficiently large SVI differential, no dispositive 307(b) preference would be awarded on this basis and the mutual exclusivity between competing applications would then be resolved through competitive bidding. The Commission seeks comment on this proposal, including comments on the magnitude of the dispositive SVI differential, and on whether using such a method to allow more applications to proceed to competitive bidding serves the public interest. Alternately, the Commission seeks comment on whether, when evaluating mutually exclusive AM proposals, it should only engage in a Priority (4) analysis when both (a) the proposed community does not meet a specified transmission and/or reception "floor," and (b) there is at least a 50 percent differential in SVI between or among competing communities.

5. The Commission also seeks comment on a Section 307(b) priority for AM auction and FM allotment proposals that would provide new third, fourth, or fifth reception service to a substantial number of listeners. The Commission seeks comment on whether to establish an "underserved listeners" priority—co-equal to Priorities (2) and (3)—for proposals that would provide a third, fourth, or fifth aural reception service to a substantial portion of the

proposed service population. Should such a priority be limited to proposals that would provide such service to at least 15, 25, 35, or 50 percent of the proposed service population? Should such an “underserved listeners” priority outweigh a Priority (3) proposal only if the total number of underserved listeners exceeds the population of the community for which a first local service is proposed? The Commission invites comment on these alternatives, as well as the specifics of their application. For instance, commenters could suggest alternate metrics for defining underserved populations or rural areas. The Commission also seeks comments as to combinations of the alternatives referenced above, or other methods by which it could promote additional transmission services at smaller communities or those that serve as the population centers for rural areas. Finally, the Commission seeks comment on how the proposals stated above would affect small business entities, including those owned by minorities and women.

6. The Commission further proposes to modify the Section 307(b) standards applied to licensees and permittees seeking to change their community of license. In *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, 21 FCC Rcd 14212 (2006) (petitions for reconsideration pending), the Commission established procedures making a community of license change a minor modification to a station’s authorization. Included among those procedures was the requirement that the applicant demonstrate that the community of license change would constitute a preferential arrangement of allotments under Section 307(b) as compared to the existing allotment(s). The Section 307(b) standards applied in this context are those developed from FM Allocations proceedings, including the *Faye and Richard Tuck* test of independence/interdependence of a community proposed as receiving a first local transmission service, and an absolute bar against removing the sole local transmission service at a community. Experience has shown that some modifications to this procedure may be warranted, however, and that concerns regarding loss of radio service to rural and smaller communities should be addressed. Accordingly, the Commission proposes that a community of license change that creates “white” or “gray” areas (areas with no or only one reception service) should not be allowed under any circumstances. Given that

provision of first or second reception service are the first two Section 307(b) priorities, the Commission believes that such an absolute bar is necessary to ensure that the least well-served populations do not suffer further drops in the level of reception service. The Commission also proposes that the presumption of Urbanized Area service described in paragraph 2, above, should also be used in evaluating AM and FM applications to change existing stations’ communities of license, to ensure that applicants claiming preference under Priority (3) are not using the streamlined procedures as a way of relocating from smaller communities to large urbanized areas, under the guise of providing first local transmission service to a smaller community in or adjacent to an Urbanized Area. Thus, in evaluating a modification application to move a station to become a new community’s first local transmission service, the Commission proposes to treat such an application as proposing service to the Urbanized Area if the new facilities would be located in or would or could place a daytime principal community signal over 50 percent or more of an Urbanized Area. The Commission seeks comment on these proposals, and specifically on whether they would help restrict the migration of stations to metropolitan areas with larger audiences, and more effectively fulfill the Commission’s Section 307(b) mandate. The Commission further seeks comment on other criteria that should be considered in evaluating a proposed change of community of license or move of facilities, including possibly outweighing even a Priority (3) first local transmission service preference. To the extent that a proposed station move would deprive a significant population of its third, fourth, or fifth reception service, the Commission seeks comment on whether such a move should be presumed contrary to the public interest. For example, what should be considered a “significant population?” Should the loss of reception service pose an absolute bar to the proposed move-out, or should the magnitude of the increased level of service, or the size of the new community, be weighed in some fashion against the size of the population losing reception service? Should such a policy favoring preservation of service to underserved populations over new first local transmission service be limited to the move-out context only, or both move-outs and proposals for new service, as discussed above? The Commission likewise seeks comment as to whether removal of the second local

transmission service from a community, even to provide a first local service to a new community, should be prohibited. Alternatively, should removal of second local service not be an absolute bar, but rather be weighed against a proposed station move, and if so, how much weight should be accorded this factor? The Commission also seeks comment on the effect of any changes on station ownership by small businesses, including those owned by minorities and women.

7. The Commission also proposes a Section 307(b) priority that may be employed by Native American Tribes and Alaska Native Villages (collectively “Tribes”), their members, and entities owned and controlled by members of Tribes. As of the 2000 U.S. Census, there are more than 4.1 million Native Americans and Alaska Natives living in the United States. There are 563 federally recognized Tribes. At present, there are approximately 41 full-power noncommercial educational (“NCE”) FM radio stations in the United States licensed to federally recognized tribes or affiliated groups, with another 31 construction permits for full-power NCE FM stations having been granted to such Tribes. Several tribal groups have expressed concern about their ability to establish radio service to their people and tribal lands. The problem is most acute in the case of tribal lands that are near large Urbanized Areas, or where the suburbs of such Urbanized Areas have begun to encroach upon areas adjacent to tribal lands. In such instances, spectrum scarcity may limit the opportunities for new radio service. Further, while communities located on tribal lands may well qualify for first local transmission service priorities in a Section 307(b) analysis, obtaining such a priority hinges upon the absence of other proposals for first local transmission service in larger communities. It is well established that Tribes are inherently sovereign Nations, with the obligation to maintain peace and good order, improve their condition, establish school systems, and aid their people in their efforts to acquire the arts of civilized life within their jurisdictions. Moreover, the Commission, as an independent agency of the United States Government, has an historic federal trust relationship with Tribes, and a longstanding policy of promoting tribal self-sufficiency and economic development. The Commission therefore believes that it is in keeping with its policy toward and relationship with Tribes, as well as the public interest, to aid Tribes and tribal consortia in their efforts to provide

educational and other programming to their members residing on tribal lands, as well as to assist them in acquiring and operating commercial stations for purposes of business and commercial development.

8. Accordingly, the Commission tentatively concludes that it is in the public interest to provide federally recognized Tribes with a Section 307(b) priority in FM allotments, AM filing window applications, and NCE FM filing window applications. To qualify for the new priority, an applicant would have to demonstrate all of the following: (1) The applicant would have to be either a federally recognized Tribe or tribal consortium, a member of a Tribe, or be an entity more than 70 percent owned or controlled by members of a Tribe or Tribes; (2) at least 50 percent of the daytime principal community contour of the proposed facilities would have to cover tribal lands, in addition to meeting all other Commission technical standards; and (3) the applicant would have to propose at least first local transmission service to the proposed community of license, which would have to be located on tribal lands. The Commission proposes that such a tribal priority fit between the current Priority (1) and co-equal Priorities (2) and (3). In other words, the tribal priority would not take precedence over a proposal to provide first reception service to a greater than *de minimis* population, but would take precedence over the provision of second local reception service or, more importantly, over a proposal for first local transmission service. While this would place the proposed tribal priority very high in the Section 307(b) analysis, the Commission believes such placement would be justified due to the inherent sovereignty of Tribes and their obligations to their members on tribal lands, and the fact that the priority is specifically designed to facilitate those obligations by Tribes or tribal members. The proposed tribal priority would be applied only at the allotment stage of the commercial FM licensing procedures, as this is the only point at which a Section 307(b) analysis is currently conducted. It would be applied to commercial or NCE AM applications filed during an AM filing window, as part of the threshold Section 307(b) analysis. The tribal priority would be applied to applications filed in an NCE FM filing window as the first part of the fair distribution analysis, before application of the "first or second reserved channel NCE service" criterion set forth in Section 73.7002(b) of the Commission's Rules. 47 CFR 73.7002(b). NCE applicants also would be required

to meet all NCE eligibility and licensing requirements. Because the tribal priority would likely be dispositive in many situations, the Commission tentatively concludes that a holding period, commencing with the award of a construction permit until the completion of four years of on-air operation, should apply to any station or allotment awarded pursuant to the tribal priority. In the case of an AM or NCE FM station awarded to a tribal applicant, the holding period would prohibit any change in ownership that would lower the 70 percent tribal ownership threshold, change of community of license, or technical change that would cause less than 50 percent of the principal community contour to cover tribal lands. In the case of a commercial FM allotment, the restriction would apply only to any proposed change of community of license or technical change as described in the preceding sentence. While the Commission believes that the restriction in technical or community changes would serve to make such allotments more attractive to Tribal members and entities, even a non-Tribal owner that is awarded a permit would still be required to provide broadcast service primarily to tribal lands for four years.

9. The Commission seeks comment on the proposals and tentative conclusions set forth above. In particular, the Commission requests comment on the proposed compositional requirements and on the specific composition that should be required of applicant entities to claim the proposed tribal priority; on the percentage of the principal community contour that must serve tribal lands; on whether any other requirements should be imposed to qualify for the priority; on the length and parameters of the holding period proposed above; or on any other matters relating to the goal of providing Tribes with greater access to broadcast frequencies covering their lands. With regard to FM commercial allotments and applications in the non-reserved band, and given that the Commission has traditionally performed Section 307(b) analyses only at the FM commercial allotment stage, the Commission specifically seeks comment as to the effect, if any, of applying the tribal priority, particularly the compositional component, only at the allotment stage. Is the geographic component of the proposed tribal priority sufficient to limit interest in such allotments to tribal applicants, or is there a way to further prioritize tribal applicants within the existing Section 307(b) framework for commercial FM applications?

Alternately, should the compositional requirement in the allocations Section 307(b) analysis be eliminated, relying solely on the geographic component in the FM commercial context? The Commission also seeks comment on modifications to the tribal priority that could apply to Tribes that do not have tribal lands, or to Tribes seeking to provide service to significant tribal populations living in communities that are not, or are not primarily, located on tribal lands. Additionally, the Commission seeks comment on any statutory or constitutional issues raised by this proposal, particularly whether the Commission's discretion under Section 307(b), which mandates "such distribution of licenses * * * among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same," is broad enough to establish such a priority, as well as whether the proposed priority, which as set forth above is premised on principles of tribal sovereignty and the federal trust responsibility, would be likely to be deemed a racial classification subject to strict judicial scrutiny.

10. Additionally, the Commission proposes a prohibition on downgrading any technical proposal that forms the basis of a construction permit award under a dispositive Section 307(b) priority. The Commission believes it is critical that the applicant not be allowed to downgrade such a proposal in a way that would serve a smaller population, or otherwise negate the factors that led to the award of a dispositive preference. To do so merely encourages "gaming" of the Section 307(b) process, leading applicants to promise more service in their applications than they plan to deliver, and can therefore undermine confidence in the fairness of procedures for awarding new construction permits. NCE FM applicants that receive a decisive preference for fair distribution of service are precluded from downgrading service to the area on which the preference is based for a period of four years of on-air operations. The Commission tentatively concludes that AM licensees or permittees receiving Section 307(b) preferences likewise should be required to provide service substantially as proposed in their short-form tech box submissions. The Commission seeks comment on this tentative conclusion, in particular on the amount of time such a licensee or permittee should be precluded from downgrading. Should it be four years, as with NCE FM applicants, or is some other period of time needed to deter such behavior?

11. Further, the Commission proposes a “technically eligible for auction processing at the time of filing” standard to be applied to all AM auction filing window “tech box” submissions. Currently, Commission staff only reviews these submissions to determine mutual exclusivity, and does not analyze them for acceptability or grantability. Although this auction processing rule was designed to reduce staff burdens by limiting comprehensive technical reviews only to singleton applications, recipients of dispositive Section 307(b) preferences, and auction winners, the Commission believes that it has instead contributed to the filing of patently defective applications, undermined the accuracy and reliability of its mutual exclusivity and Section 307(b) determinations, and frustrated the staff’s ability to manage the window filing process efficiently. Moreover, such defective applications preclude the filing of meritorious modification applications by existing facilities, which must protect the prior-filed defective applications. Thus, the Commission tentatively concludes that Section 73.3571(h)(1)(ii) of its Rules, 47 CFR 73.3571(h)(1)(ii), should be modified to require that applicants in future AM broadcast auctions must at the time of filing meet basic technical eligibility criteria, including community of license coverage (day and night), and protection of co- and adjacent-channel stations and prior-filed applications (day and night). The Commission also tentatively concludes that the Rules should be modified to prohibit the amendment of applications that, at time of filing, are technically ineligible to proceed with auction processing, and prohibit applicants that propose such technically ineligible applications from participating in the auction. This proposal would preclude attempts to amend or correct data submitted in Form 175 or the tech box, including proposals to change community of license before an applicant has been awarded a construction permit. The Commission invites comment on this proposal.

12. The Commission also proposes a number of smaller but significant rule and policy changes designed to streamline various allotment and assignment processes. One such proposed change is to codify the permissibility of non-universal settlements in mutually exclusive groups of AM filing window applicants. The broadcast auction anti-collusion rules apply generally upon the filing of a short-form application, and prohibit applicants from communicating with

each other. Section 73.5002(d) of the Commission’s Rules, 47 CFR 73.5002(d), provides applicants in certain mutually exclusive application groups a limited opportunity to resolve conflicts by means of technical amendment or settlement. This exception to the anti-collusion rules applies only to those groups that include either (1) At least one AM major modification; (2) at least one noncommercial educational application; or (3) applications for new stations in the secondary broadcast services. Currently, the rule neither prohibits the Commission from accepting non-universal technical amendments or settlement proposals—which reduce the number of applicants in a group but do not completely resolve the mutual exclusivities of that group—nor requires it to do so. The Commission tentatively concludes that the staff should be given delegated authority, at its discretion and where appropriate, to permit non-universal technical amendments and settlement proposals that make at least one application grantable. However, an applicant submitting a technical amendment pursuant to this policy must resolve all of its mutual exclusivities with respect to the other applications in the specified mutually exclusive group. If the applicant cannot resolve all of its own application’s mutual exclusivities, its amendment will not be accepted. The Commission invites comment on this tentative conclusion.

13. The Commission’s experience with AM filing windows has suggested that many AM applicants may be filing multiple proposals merely to maximize their chances of having some granted without auction, circumventing auction participation. However, such a practice increases the likelihood of mutually exclusive applications, leads to large and technically complex mutually exclusive groups, and as discussed in connection with the proposal to require pre-auction study of application acceptability, may impose undue burdens on Commission staff. Therefore, the Commission seeks comment on whether to give the Media Bureau and Wireless Telecommunications Bureau delegated authority to determine, in an AM auction filing window, whether there should be a limit on the number of AM applications that may be filed by individual applicants and, if so, the appropriate application cap. The Bureaus routinely announce application filing procedures by public notice, and could announce application caps by public notice as well, as has been done in previous secondary service filing

windows. Against the possibility that some applicants may seek to avoid cap limits by using affiliates or even sham entities, the Commission seeks comment on whether, under this proposal, it should apply Commission attribution standards to determine the number of filings submitted by any party. Should the Commission also adopt special attribution rules beyond those set forth in Note 2 to Section 73.3555 of the Commission’s Rules (47 CFR 73.3555)? The use of application caps could force applicants to focus on preferred proposals, deter speculation, and ease staff processing burdens, thereby facilitating more frequent filing windows, speedier processing of window-filed applications, and shorten the time between application filing and auction. On the other hand, a cap may restrict new entrants into markets and programming choices for listeners. The Commission seeks comment on whether allowing the Bureaus to impose application caps would be a useful mechanism to balance the competing interests in promoting new and expanded broadcast services and the statutory obligation to prevent abuses of Commission licensing procedures, including trafficking in new AM station construction permits. Finally, the Commission seeks comment on how application caps could impact small business entities.

14. The Commission’s Rules currently provide, without exception, that each winning bidder in a broadcast auction must submit an appropriate long-form application within thirty (30) days following the close of bidding. This lack of flexibility has proven to be problematic as when, for example, the long-form filing date falls on or near major holidays. The Commission tentatively concludes that Section 73.5005 of the Rules, 47 CFR 73.5005, should be modified to delegate authority to the Media Bureau and the Wireless Telecommunications Bureau to extend the filing deadline for the submission of long-form applications in broadcast auctions, as circumstances warrant. The Commission invites comment on this conclusion.

15. The Commission also proposes to prohibit the practice of “band hopping” by applicants for FM translator stations. Many parties filed for translators in the non-reserved FM band (Channels 221–300) during the March 2003 Auction No. 83 filing window. Despite the fact that the Commission is not accepting applications for new FM translator stations in the reserved band, a number of Auction No. 83 applicants have attempted to “hop” into the reserved band upon grant of their initial

construction permits by filing minor change applications that proposed changes to first-, second-, or third-adjacent channels, or intermediate frequency channels. Upon relocation to a channel in the reserved band, such FM translators would be able to operate under the less restrictive NCE rules, which permit the use of alternative methods of signal delivery, such as satellite and terrestrial microwave facilities. The filing of such band-hopping applications by FM translator stations prior to construction of their facilities wastes staff resources and is patently unfair to those potential applicants that have waited for the opening of a reserved band FM translator window. The same problem can arise with applicants in the next reserved band FM translator window attempting to “hop” into the non-reserved band, while those waiting for a new non-reserved band window are precluded from applying. The Commission tentatively concludes, therefore, that Section 74.1233 of the Commission’s Rules, 47 CFR 74.1233, should be modified to prohibit this practice. Specifically, the Commission proposes to require that applications to move into the reserved band from the non-reserved band, or to move into the non-reserved band from the reserved band, may only be filed by FM translator stations that have filed license applications or are licensed, and that have been operating for at least two years. The Commission also tentatively concludes that there should be a holding period for new FM translator permittees before they are allowed to “hop” from one band to the other, and that the holding period should be two years of on-air operation following the filing of a license application. The Commission solicits comment on these proposals, and as to the duration of the proposed holding period.

16. Two AM applications filed during the same filing window are considered mutually exclusive if either fails to fully protect the other as required by the Commission’s technical rules. In *Nelson Enterprises, Inc.*, 18 FCC Rcd 3414 (2003), the Commission held that the staff properly calculated predicted nighttime interference levels, pursuant to Section 73.182(k) of the Rules, 47 CFR 73.182(k), by considering interference caused to or received from other window-filed applications as well as to existing stations. It also rejected the contention that window-filed applications should not be considered mutually exclusive if they could be granted by processing them in a particular sequence and treating one

application as having been “first filed,” and therefore entitled to cut-off protection. The Commission tentatively concludes that it should modify Section 73.3571 of the Rules, 47 CFR 73.3571, to codify the *Nelson Enterprises, Inc.* decision, by explicitly providing that Section 73.182(k) interference standards are applicable in determining nighttime mutual exclusivity between applications to provide AM service that are filed in the same window. That is, two applications would be deemed to be mutually exclusive if either application would be subject to dismissal because it would enter the 25 percent limit of the other. It is anticipated that this rule change would promote the strict interference standard that the Commission has determined is necessary to revitalize the AM service. The Commission invites comment on this tentative conclusion.

17. The Commission further proposes to clarify two aspects of the new entrant bidding credit, which is afforded to auction applicants with attributable interests in few or no media of mass communication. First, under Section 73.5007(b) of the Commission’s Rules, 47 CFR 73.5007(b), a winning bidder is not eligible for the bidding credit if it, or any party with an attributable interest in the winning bidder, has an attributable interest in any existing mass media facility in the “same area” as the proposed new facility. The existing and proposed facilities are in the “same area” if the principal community contours of the two facilities would overlap. The Commission proposes to clarify that, for purposes of the new entrant bidding credit, the contour of a proposed new FM broadcast facility is defined by the maximum class facilities at the allotment site. Thus, for example, an applicant could not seek to avoid principal community contour overlap and, thereby, qualify for a credit, by specifying preferred site coordinates in its short-form application. Applying the same principle, a winning bidder found eligible for the new entrant bidding credit because there is no contour overlap between its existing facility and the proposed facility would not be required to reimburse the Commission if, in its long-form application, it were to employ a one-step upgrade to the proposed facility that would create an overlap with its existing station. Despite the overlap, there would be no diminishment to the applicant’s originally claimed bidding credit because the maximum class facilities at the original allotment site would control for purposes of the bidding credit. The Commission seeks comment on this

proposal. Second, to prevent unjust enrichment by parties that acquire broadcast permits through the use of the bidding credit, Section 73.5007(c) of the Commission’s Rules, 47 CFR 73.5007(c), requires that such parties must reimburse the government for all or part of the credit, plus interest, upon a subsequent assignment or transfer of control of the permit or license, if the proposed assignee or transferee is not eligible for the same bidding credit. This rule is routinely applied to assignment or transfer of control applications filed on FCC Forms 314 and 315, respectively. The Commission tentatively concludes that the analysis should apply to assignments or transfers of control that are considered *pro forma* in nature and may be filed on FCC Form 316. This is designed to eliminate confusion among applicants, because the rule as written does not distinguish between *pro forma* and non-*pro forma* assignments and transfers of control. The Commission seeks comment on this tentative conclusion.

18. The Commission also proposes to clarify that an applicant’s maximum new entrant bidding credit eligibility is established as of the short-form filing deadline for a given auction filing window, but may be reduced based on events occurring after filing the Form 175 short form application. This is especially true with regard to the post-filing acquisition of additional attributable interests in media of mass communication. Accordingly, the Commission proposes to amend Section 73.5007(a) of the Rules, 47 CFR 73.5007(a), to state unequivocally that the new entrant bidding credit eligibility set forth in an applicant’s FCC Form 175 application is the maximum eligibility for that auction, but that such bidding credit may be diminished based upon post-filing changes, and that such changes must be reported promptly. Under this proposal, final determinations regarding an applicant’s eligibility to hold a construction permit, including eligibility for the new entrant bidding credit, will continue to be made when the Commission is ready to grant the post-auction long-form construction permit application. In the event that an applicant’s eligibility for the new entrant bidding credit changes between the final payment deadline and the date on which the construction permit application is granted, the applicant would be required to make any additional payment prior to the issuance of the permit or license.

14. Section 73.313(e) of the Commission’s Rules, 47 CFR 73.313(e), states that alternate methods for predicting FM contours may be

employed in cases where the terrain in one or more directions from the antenna site “departs widely” from the average elevation used by the staff in predicting contours. The standard method measures the average terrain in a segment of a given radial from three to 16 kilometers from the antenna site, and assumes a terrain roughness factor of 50 meters, which is considered to be representative of average terrain in the United States. Often, applicants will submit contour calculations using alternate prediction methods, usually to demonstrate that their proposed facilities will meet Commission technical standards, for example, those requiring certain levels of signal coverage of the community of license. The Commission proposes, in order to provide a measure of certainty to applicants, to codify the standards it has used informally since 2001 as the showings required in order to justify submission of contour calculations by methods other than the Commission’s standard methodology. These standards are, first, to consider that terrain departs widely when the antenna height above average terrain (“HAAT”) along a single radial in the direction of a community’s center, from three to 16 kilometers from the antenna site (i.e., the Commission’s standard measurement methodology), varies by more than 30 percent from the HAAT along the same radial, measured from three kilometers from the antenna site to the community’s outer boundary. Second, when there is line of sight coverage from the antenna to the community of license, the staff has found terrain to depart widely when the actual terrain roughness factor, measured along the radial running from the antenna site to the community center from a distance of 10 to 50 kilometers from the antenna site, is less than or equal to 20 meters or greater than or equal to 100 meters (known as “delta-h”). If one of these two conditions is met, the staff will allow a contour showing using an alternate prediction method, provided that (a) the contour predicted by the alternate method is at least ten percent greater than that predicted by the standard methodology, and (b) for stations in the non-reserved FM band, the 70 dBμ principal community contour predicted by the alternate method is not greater than the 60 dBμ contour predicted by the standard methodology. The Commission proposes to set forth these guidelines in a note to Section 73.313(e). The Commission notes that, because a principal community contour calculated using alternate prediction methods must be at least ten percent

larger than the contour calculated using standard methodology, and because the 60 dBμ principal community contour of an NCE FM station in the reserved band is the same as its protected contour (see 47 CFR 73.509, 73.515), these guidelines preclude the use of alternate contour prediction methods for NCE FM stations in the reserved band. The Commission invites comment on this proposal, or on any modifications to, additions to, or substitutions for these guidelines.

15. Comments and Reply Comments. Pursuant to §§ 1.415 and 1.419 of the Commission’s Rules (47 CFR 1.415, 1.419), interested parties must file comments on or before July 13, 2009, and must file reply comments on or before August 11, 2009. Comments may be filed using: (1) The Commission’s Electronic Comment Filing System (ECFS); (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies.

16. Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cbg/ecfs>, or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web sites for submitting comments. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, “get form.” A sample form and directions will be sent in response.

17. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission. The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for

the Commission’s Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

18. Contact the FCC to request materials in accessible formats (Braille, large print, electronic files, audio format, etc.) by e-mail at FCC504@fcc.gov, or call the Consumer & Governmental Affairs Bureau at 202–418–0531 (voice), 202–418–7365 (TTY).

19. The full text of the Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission’s copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/CC-09-30.pdf.

20. *Ex Parte* Rules. This proceeding will be treated as a “permit-but-disclose” proceeding subject to the “permit-but-disclose” requirements under § 1.1206(b) of the Commission’s Rules (47 CFR 1.1206(b)). *Ex parte* presentations are permissible if disclosed in accordance with Commission Rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission’s Rules.

21. *Initial Regulatory Flexibility Analysis*. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment rule making proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant

economic impact on a substantial number of small entities.” The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

22. As required by the Regulatory Flexibility Act of 1980, as amended (RFA) (5 U.S.C. 603), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided herein. The Commission will send a copy of this entire NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and the IRFA (or summaries thereof) will be published in the **Federal Register**.

23. *Need For, and Objectives of, the Proposed Rules.* This rulemaking proceeding is initiated to obtain comments concerning the Commission’s proposals to change its Rules regarding analysis and processing procedures for AM commercial applications subject to competitive bidding rules, and certain procedures for analyzing and processing proposals for new FM allotments and noncommercial educational FM channel assignments. Specifically, the NPRM proposes to add a presumption that a proposal that would cover more than 50 percent of an Urbanized Area not be able to receive a dispositive Priority (3) preference if it proposes first local transmission service at a community in or adjacent to the Urbanized Area; proposes to eliminate Priority (4) preferences in AM auction applications except in extraordinary circumstances, such as when a defined service “floor” exists, an applicant proposes a Service Value Index 50 percent greater than a competing applicant, or an applicant proposes to provide third, fourth, or fifth reception service to a significant population, and to prohibit downgrading such service if an applicant receives a dispositive Section 307(b) preference based on such a proposal; to limit or prohibit station

community of license changes from rural, small, and underserved communities; to add a new Section 307(b) priority for applications filed by members of, or entities owned by members of, federally recognized Native American and Alaska Native tribes; to require that AM auction applications be technically eligible for auction processing when the short form is filed; to allow non-universal settlements among certain mutually exclusive AM auction applicants; to delegate to the Media Bureau authority to cap the number of AM applications that may be filed, to be more flexible in setting filing deadlines for post-auction long-form applications, and to allow requests for dismissal of “tech box” information submitted with a short-form application; to prohibit FM translator licensees from “hopping” from the reserved to non-reserved bands and vice-versa; and to codify or clarify the technical standards for determining AM nighttime mutual exclusivity among window-filed AM applications, application of the new entrant bidding credit unjust enrichment rule, and new entrant bidding credit eligibility. The Commission believes these proposals will speed the licensing process, better conform broadcast and auction ownership disclosure rules, promote the filing of technically sound applications, deter speculation, and encourage the fair distribution of broadcast licenses.

24. *Legal Basis.* The authority for this proposed rulemaking is contained in sections 1, 2, 4(i), 303, and 307, of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, and 307.

25. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA generally defines the term “small entity” as encompassing the terms “small business,” “small organization,” and “small governmental entity.” In addition, the term “small Business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

26. *Radio Stations.* The proposed rules and policies potentially will apply to all AM and commercial FM radio broadcasting licensees and potential licensees. The SBA defines a radio broadcasting station that has \$6 million

or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations that are primarily engaged in radio broadcasting and that produce radio program materials are similarly included. However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number. According to BIA Advisory Services, L.L.C., MEDIA Access Pro Database on March 17, 2009, 10,884 (95%) of 11,404 commercial radio stations have revenue of \$6 million or less. However, many radio stations are affiliated with much larger corporations having much higher revenue. Our estimate, therefore, likely overstates the number of small entities that might be affected by any ultimate changes to the allocation and assignment rules.

27. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* The proposed rule and procedural changes may impose some additional reporting requirements on existing and potential radio licensees and permittees, insofar as they would require or allow certain applicants to file new technical and population coverage information after the short form application (FCC 175) or in the noncommercial educational long form application (FCC 340). However, the forms to be filed would be existing FCC application forms with which broadcasters are already familiar, and the information requested to claim the tribal priority is similar to current Section 307(b) showings, so any additional burdens would be minimal. We seek comment on the possible cost burden these requirements would place on small entities. Also, we seek comment on whether a special approach toward any possible compliance burdens on small entities might be appropriate.

28. *Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements

under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The Commission seeks comment on procedures to award commercial broadcast licenses through Section 307(b) analyses and competitive bidding that will, in most instances, reduce the burdens on all broadcasters, including small entities, compared to current procedures. The Commission further seeks comment on changes proposed in this NPRM to FM allotment procedures that may reduce the burdens on broadcasters, including small entities, or will not increase the burdens compared to current procedures. The Commission also seeks specific comments on the burden our proposals may have on small broadcasters. There may be unique circumstances these entities may face and we will consider appropriate action for small broadcasters at the time when a Report and Order is considered.

29. *Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals.* None.

30. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or via e-mail at Brian.Millin@fcc.gov.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. E9-11067 Filed 5-12-09; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0811201490-9322-02]

RIN 0648-AX42

Fisheries of the Exclusive Economic Zone Off Alaska; Central Gulf of Alaska Rockfish Program; Amendment 85; Correction

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

ACTION: Proposed rule; extension of comment period; correction.

SUMMARY: This document corrects an error in the regulatory text of a proposed

rule published on April 6, 2009 (74 FR 15420) and extends the proposed rule's comment period by 30 days (from May 21, 2009 to June 22, 2009). The proposed rule would implement Amendment 85 to the Fishery Management Plan for Groundfish of the Gulf of Alaska. The proposed rule would amend the Central Gulf of Alaska Rockfish Program to remove a restriction that prohibits certain catcher/processors from participating in directed groundfish fisheries in the Bering Sea and Aleutian Islands Management Area in July. It incorrectly removes a similar restriction on such vessels participating in directed groundfish fishing in the Gulf of Alaska. This notice corrects the error in the proposed regulatory text. Amendment 85 is necessary to improve flexibility and reduce operating costs for catcher/processors that participate in the Central Gulf of Alaska Rockfish Program.

DATES: Comments must be received by June 22, 2009.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-AX42," by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.

- Mail: P. O. Box 21668, Juneau, AK 99802.

- Fax: 907-586-7557.

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Copies of Amendment 85 to the Fishery Management Plan for Groundfish of the Gulf of Alaska, the proposed rule to implement Amendment 85, the Regulatory Impact Review (RIR), the Initial Regulatory

Flexibility Analysis (IRFA), the categorical exclusion prepared for this action, and the Environmental Assessment (EA), RIR, and Final Regulatory Flexibility Analysis (FRFA) prepared for the Central Gulf of Alaska Rockfish Program are available from the NMFS Alaska Region at the address above or from the Alaska Region website at <http://www.alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT:

Rachel Baker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive economic zone of the Gulf of Alaska (GOA) are managed under the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). The North Pacific Fishery Management Council prepared the GOA FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* Regulations implementing the GOA FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

NMFS proposed regulations to implement Amendment 85 to the GOA FMP on April 6, 2009 (74 FR 15420). Amendment 85 would amend the Central Gulf of Alaska Rockfish Program (Rockfish Program) to remove a restriction that prohibits certain catcher/processors from participating in directed groundfish fisheries in the Bering Sea and Aleutian Islands (BSAI) in July.

Need for Correction

The regulations at 50 CFR 679.82(g)(3) prohibit certain catcher/processor vessels that participate in the Rockfish Program limited access fishery from participating in GOA and BSAI groundfish fisheries during a specific period of time in July. The proposed regulatory text incorrectly includes a provision to change the period of time that the prohibition against directed fishing in GOA groundfish fisheries is in effect. This incorrect proposed change is inconsistent with Amendment 85 to the GOA FMP. Amendment 85 would not change the prohibition against directed fishing in the GOA groundfish fisheries for certain catcher/processor vessels that participate in the Rockfish Program limited access fishery; it only would remove the prohibition against directed fishing by these vessels in the BSAI. This notice corrects the error in the proposed regulatory text by revising the paragraph (g)(3) to accurately reflect the intent of Amendment 85 and extends the comment period for the proposed rule to implement Amendment 85 to the

GOA FMP by 30 days from May 21, 2009 to June 22, 2009.

Correction

In proposed rule FR Doc. E9-7557, published on April 6, 2009 (74 FR 15420) correct the amendment to § 679.82(g)(3) in the third column on page 15428 to read:

“(g) * * *

(3) *Prohibition from directed fishing in GOA groundfish fisheries.* Except for the rockfish limited access fishery and sablefish harvested under the IFQ

Program, a vessel may not participate in any GOA groundfish fishery and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species, from July 1 until 90 percent of the Central GOA Pacific ocean perch that is allocated to the rockfish limited access fishery for the catcher/processor sector has been harvested, if:

(i) The vessel is named on an LLP license used in the rockfish limited access fishery; and

(ii) The vessel has been assigned rockfish QS greater than an amount equal to 5 percent of the Pacific ocean perch rockfish QS allocated to the catcher/processor sector.

* * * * *

Dated: May 7, 2009.

Samuel D. Rauch III

*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

[FR Doc. E9-11195 Filed 5-12-09; 8:45 am]

BILLING CODE 3510-22-S

Notices

Federal Register

Vol. 74, No. 91

Wednesday, May 13, 2009

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

DEPARTMENT OF AGRICULTURE

Office of the Assistant Secretary for Civil Rights; Notice of Intent To Seek Approval of a New Information Collection

AGENCY: Office of the Assistant Secretary for Civil Rights, U.S. Department of Agriculture.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary for Civil Rights (OASCR) is seeking comments from all interested individuals and organizations on a new information collection. This notice announces the OASCR's intention to request approval for a new information collection aimed at standardizing and consolidating the race, ethnicity, sex, national origin, disability and age (RESNODA) data for agencies within the U.S. Department of Agriculture (USDA) that serve agricultural producers and landowners. This information collection will assist the USDA agencies in the compilation of program application and participation rate data for socially disadvantaged farmers or ranchers for programs that serve agricultural producers and landowners. USDA continues to seek ways to improve delivery of program services and benefits, fulfill various civil rights responsibilities, and increase participation for those who are eligible to receive benefits and assistance.

DATES: We will consider comment that we receive by July 13, 2009.

ADDRESSES: We invite you to submit comments on this notice. In your comment, include date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *E-mail:* Send comments to: Rhonda.davis@usda.gov.
- *Mail:* Ms. Rhonda Davis, Director, Planning, Performance and

Accountability Division, OASCR, USDA, 1400 Independence Avenue, SW., Mailstop 9475, Washington, DC 20250.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Rhonda Davis, Director, Planning, Performance and Accountability Division, phone (202) 720-1010.

SUPPLEMENTARY INFORMATION:

Background

Section 14006 of the Food, Conservation and Energy Act of 2008 (2008 Farm Bill; Pub. L. 110-246) requires the Secretary of Agriculture to compile program application and participation rate data on socially disadvantaged farmers or ranchers by race, ethnicity, and gender. The collection of data is necessary to provide USDA with the composition of its constituents, particularly from a race and ethnicity standpoint. Further, data is necessary to give USDA a baseline on its applicants and participants and assist it in planning and assisting its constituents.

The goal of a farm program focused collection of RESNODA data is to reduce the burden on citizens to provide this type of information by creating a single voluntary survey transaction where the data is collected, one time in a standard format. For subsequent transactions where this information is needed to report on application or participation rates or to improve program participation, the Department will provide the opportunity for the applicant or participant to revise their data. If no revisions are made, USDA will reuse the data previously collected.

This information collection request is intended over a period time to consolidate a number of agency collections of RESNODA data and to minimize the number of separate forms and transactions required to obtain USDA services, thereby reducing the burden in collecting this information from the public.

When collected manually, a paper form will be used in conjunction with the appropriate program application form as a tear-off where the application for services will be electronically transmitted to the appropriate agency

for action, and information from the paper form will be electronically transmitted to a Departmental repository to be used in subsequent customer transactions and for applicable Civil Rights analysis and reporting. The electronically collected data will reside in an enterprise database.

While the demographic data will be available for management reporting purposes to comply with section 14006 of the 2008 Farm Bill, a flag would graphically indicate to USDA employees that the information had been previously collected. The privacy of the data will be protected. The existing customer data Systems of Record will be modified or created if applicable to meet the Privacy Act requirement.

Description of Information Collection

Title: Customer Information.

OMB Number: 0503-NEW.

Type of Request: New information collection.

Abstract: The purpose of the collection is to enable the agency heads to report annually to the Secretary of Agriculture on the collection of RESNODA data for all USDA farm programs, and to further ensure that this information is collected only once for each customer. When established, this information will assist OASCR and USDA agencies in assessing farm programs for each county and State in the United States based on program application and participation rate data for agricultural producers and landowners.

Estimate of Burden: For the initial collection of RESNODA data, the estimated burden is 3 minutes per response either collected manually through a Departmental form or collected electronically through the USDA.gov web portal.

Estimated Number of Respondents: The Department estimates 14,000,000 constituents subject to the collection of RESNODA data.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 700,000 hours.

We are requesting comments on all aspects of this information collection including the following to help us:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including

whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of burden of the proposed collection of information, including the validity of methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate, automated, electronic, mechanical or other technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Summary of 2004 Comments

A previous notice requesting comments on this information collection request was published in the **Federal Register** on June 23, 2004 (69 FR 34990–34991). The 60-day comment period for the notice closed on August 23, 2004; 6 comments were received. The scope of the request for information collection approval has been narrowed to initially focus on information collected by the three service center agencies, the Farm Service Agency (FSA), the National Resources Conservation Service (NRCS), and Rural Development (RD). None of the comments addressed any issues related to information collection by FSA, NRCS, or RD.

Signed at Washington, DC on May 7, 2009.

Joe Leonard, Jr.,

Assistant Secretary for Civil Rights.

[FR Doc. E9–11109 Filed 5–12–09; 8:45 am]

BILLING CODE 3410–98–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Amended Notice of Intent To Prepare an Environmental Impact Statement for the Biomass Crop Assistance Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Commodity Credit Corporation (CCC) intends to prepare an Environmental Impact Statement (EIS) for the Biomass Crop Assistance Program (BCAP). BCAP is a new program authorized by the Food,

Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The EIS will assess the potential environmental impacts of alternatives for administration and implementation of BCAP. Through this notice and public meetings, CCC is requesting the public to provide comments and inputs on the preliminary proposed program alternatives and environmental concerns associated with the implementation of BCAP.

DATES: See the **SUPPLEMENTARY INFORMATION** section for dates of the six public meetings.

Comments: We will consider comments that we receive by June 12, 2009. We will consider comments submitted after that date, to the extent possible.

ADDRESSES: We invite you to submit comments and to participate in public meetings on the proposed alternatives related to BCAP. If you e-mail, fax, or mail your comments, include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- Go through the established public comments Web site located at <http://public.geo-marine.com>.
- **E-Mail:** bcap@geo-marine.com.
- **Fax:** (757) 873–3703.
- **Mail:** BCAP EIS c/o Geo-Marine, Inc., 2713 Magruder Boulevard, Suite D, Hampton, Virginia 23666.
- **Hand Delivery or Courier:** Deliver comments to the above address.
- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Comments may be inspected in the Office of the Director, CEPD, FSA, USDA, 1400 Independence Ave., SW., Room 4709 South Building, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

See the **SUPPLEMENTARY INFORMATION** section for addresses for the six public meetings.

FOR FURTHER INFORMATION CONTACT: Matthew T. Ponish, FSA National Environmental Compliance Manager at (202) 720–6853 or matthew.ponish@wdc.usda.gov. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION: BCAP is authorized by Title IX of the 2008 Farm Bill (Pub. L. 110–246). The 2008 Farm Bill amends Title IX of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171); specifically, for BCAP, the 2008 Farm Bill adds section 9011 (7 U.S.C. 8111) to Title IX. BCAP is intended to support the establishment and production of crops for conversion to bio-energy in project areas (locations) and to assist with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

As a new energy program, BCAP presents an opportunity to encourage landowners and operators to produce biomass for commercial energy production in ways that both are economically and environmentally sound. CCC plans to implement BCAP by approving the best-qualifying project proposals from project sponsors (producers or facilities) and then entering into contracts with individual producers in the approved project locations. BCAP is a CCC program administered by the Farm Service Agency (FSA) with the support of other Federal and local agencies.

Under the National Environmental Policy Act (NEPA), the EIS process provides a means for the public to provide input on program implementation alternatives and on environmental concerns. This notice informs the public of CCC's intention to prepare an EIS for BCAP. CCC initially solicited public input and comments on the proposed EIS for BCAP from the notice published in the **Federal Register** on October 1, 2008 (72 FR 5704–57047).

When we received comments and inputs from the public and through internal agency scoping, CCC developed the following alternatives for the BCAP analysis to be considered as part of the regulatory requirements under NEPA process:

(1) *No Action Alternative*—addresses the potential effects from not implementing BCAP.

(2) *Action Alternative 1*—addresses a targeted implementation of BCAP to specific areas or regions of the United States.

(3) *Action Alternative 2*—addresses a broad national implementation of BCAP.

The public meetings will be scoping meetings and will provide public input for the development of the alternatives.

Date	Time	Location information
May 28, 2009	6:30 p.m. to 8:30 p.m. local time ..	Red Lion Hotel, 2300 Evergreen Park Drive, Olympia, Washington 98501, Ph: 360-252-0972, Fax: 360-753-9651.
June 2, 2009	6:30 p.m. to 8:30 p.m. local time ..	Hilton Garden Inn, 9000 Interstate 40 West, Amarillo, Texas 79124, Ph: 806-355-4400, Fax: 806-355-4411.
June 4, 2009	6:30 p.m. to 8:30 p.m. local time ..	Alexander Fulton Hotel & Convention Center, 701 4th Street, Alexandria, Louisiana 71301, Ph 318-442-9000.
June 8, 2009	6:30 p.m. to 8:30 p.m. local time ..	Renaissance Savery Hotel, 401 Locust Street, Des Moines, Iowa 50309, Ph: 515-365-7232, Fax: 515-244-1228.
June 10, 2009	6:30 p.m. to 8:30 p.m. local time ..	Hilton Garden Inn, 101 S. Front Street, Albany, Georgia 31701, Phone: 229-518-5003, Fax: 229-878-4862.
June 11, 2009	6:30 p.m. to 8:30 p.m. local time ..	Hilton Garden Inn Syracuse, 6004 Fair Lakes Road, Syracuse, New York 13057, Ph: 315-431-4800, Fax: 315-431-4999.

Signed in Washington, DC on May 7, 2009.

Doug Caruso,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. E9-11094 Filed 5-12-09; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Forest Service

Cibola National Forest, Mount Taylor Ranger District, NM, La Jara Mesa Mine

AGENCY: Forest Service, USDA.

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

SUMMARY: Laramide Resources (USA) Inc. has submitted a Plan of Operations (the Plan) proposing to develop and conduct underground uranium mining operations on their mining claims on La Jara Mesa on the Mount Taylor Ranger District of the Cibola National Forest. La Jara Mesa is located approximately 10 miles northeast of the town of Grants in Cibola County, New Mexico. The mine portal facilities would be located on claims controlled by the applicant on national forest lands at the base of the La Jara Mesa at an elevation of 7,300 feet in the NE¹/₄, Section 15, T12N, R9W, NMPM. The mineralized zones that would be accessed from the portal are located in portions of Sections 1, 2, 11, 12, 13, and 14, T12N, R9W, NMPM. The escape shaft would be located on Forest Service administered lands on top of La Jara Mesa in Section 11, T12N, R9W, NMPM. The Cibola National Forest will prepare an environmental impact statement to assess the development of a uranium exploration and mining operation on the Mount Taylor Ranger District.

DATES: Comments concerning the scope of the analysis must be received by 30 days after the publication of the NOI. Public scoping open houses will be held during the scoping period in Grants and Gallup New Mexico. The schedule for the open houses is as follows:

Wednesday, May 20, 2009 in Grants, New Mexico, from 6 p.m. to 9 p.m. at the Cibola County Convention Center and Thursday, May 21, 2009 in Gallup, New Mexico from 6 p.m. to 9 p.m. at the Gallup Community Service Center. Times and locations of these meetings will be announced by public notice and will be available on the Cibola National Forest Web site. The draft environmental impact statement is expected before the end of 2009 and the final environmental impact statement and Record of Decision (ROD) is expected in spring/summer, 2010.

ADDRESSES: Send written comments to Rodney Byers, Minerals Program Manager, Cibola National Forest, 2113 Osuna Road, NE., Albuquerque, NM 87113.

FOR FURTHER INFORMATION CONTACT: For further information, mail correspondence to Rodney Byers, Minerals Program Manager, Cibola National Forest, 2113 Osuna Road, NE., Albuquerque, NM 87113. Individuals who use telecommunication devices 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.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

Laramide Resources (USA), Inc. has submitted a Plan of Operations for development of a uranium mine at the La Jara Mesa property. The purpose of the EIS is to evaluate the environmental impacts of the proposed Plan of Operations and determine whether to approve the Plan as proposed or to require additional mitigation measures to protect the environment (in accordance with Forest Service regulations for locatable minerals).

The need for action is to allow Laramide Resources (USA), Inc. to exercise their rights under U.S. mining laws. Laramide Resources (USA), Inc. has a right to develop and remove the mineral resources as set forth by the

General Mining Law of 1872 as amended. These laws provide that the public has a statutory right to conduct prospecting, exploration, development and production activities (1872 Mining Law and 1897 Organic Act), provided they are reasonably incident (1955 Multiple Use Mining Act and case law) to mining and comply with other Federal laws.

The Forest Service has the responsibility to protect surface resources. Mining regulations state that "operations shall be conducted so as, where feasible, to minimize adverse environmental effects on National Forest System surface resources (36 CFR 228.8)" provided such regulation does not endanger or materially interfere with prospecting, mining, or processing operations or reasonably incidental uses (1955 Multiple Use Mining Act and case law).

Laramide Resources (USA), Inc.'s need is to provide uranium ore for processing to meet national and international market demands for uranium on the open market. Such demand is created by a current need for uranium for nuclear power plant fuel to generate electricity or for commercial and other uses. The Forest Service has concluded that the underlying need for this mining activity is to provide uranium for U.S. and world markets.

Proposed Action

The proposed action is an underground uranium mine consisting of a 15-16 acre footprint on the surface which will be comprised of waste rock, temporary ore storage, a new water line and electrical transmission line following the existing private and Forest roads to the site. The mine will include two audit portals and, after active mining is initiated, a vertical escape shaft to the top of the mesa to provide air circulation and an escape route in the event of an accident. The shaft opening and supporting power and equipment will lie inside a fenced area of approximately 0.1 acre. Additional

facilities at the mine include a locked explosives storage shed, lighting, ventilation fans, one or more stormwater ponds, and a field office. The proposed Federal action is to approve Laramide Resources (USA), Inc.'s Plan of Operations with mitigations needed to protect other non-mineral surface resources consistent with Forest Plan, regulations, and other applicable laws.

Possible Alternatives

1. No Action. 2. Approve the Plan as presented. 3. Approve the Plan as presented by Laramide Resources (USA), Inc., with stipulations necessary to protect the non-mineral resources of the area.

Responsible Official

Nancy Rose, Forest Supervisor, Cibola National Forest. 2113 Osuna Road, NE., Albuquerque, NM 87113.

Nature of Decision To Be Made

The Forest Supervisor will use the EIS process to develop the necessary information to make an informed decision on whether or not to approve the proposed Plan as submitted, or to decide what additional mitigations are needed to protect other resources as provided for in 36 CFR 228.8.

Scoping Process

Scoping will include this NOI, listing in the Quarterly Schedule of Proposed Actions, letters to interested and affected individuals, agencies, and organizations, and legal notices, and the open houses in Grants and Gallup, New Mexico. Additional information about the project, schedule, permits and approvals, and opportunities for public involvement will be available at the open houses. The intent of scoping is to solicit comments on issues and alternatives that agencies and the public feel should be addressed in the EIS.

Preliminary Issues

One preliminary issue has been identified: the development of the La Jara Mesa Mine may affect the characteristics that make the Mount Taylor Traditional Cultural Property eligible for the National Register of Historic Places. Other issues may include groundwater contamination, natural resources, economics and health and safety issues.

Permits or Licenses Required

The approved Plan of Operations authorizes mining. Operations must be consistent with Forest Service Conditions of Approval, and other applicable laws and regulations,

including state permits for mining in New Mexico.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. Comments are solicited and are welcome for the 30-day comment period initiating on the publication date of this notice.

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative review or judicial review. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the respondent with standing to participate in subsequent administrative review or judicial review.

Authority: 40 CFR 1501.7 and 1508.22; 36 CFR 220.4.

Dated: April 30, 2009.

Nancy Rose,

Forest Supervisor, Cibola National Forest.

[FR Doc. E9-11223 Filed 5-12-09; 8:45 am]

BILLING CODE 3410-11-P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000, as amended, (Pub. L. 110-343), the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will conduct a business meeting. The meeting is open to the public.

DATES: Wednesday, May 20, 2009 beginning at 10:30 a.m.

ADDRESSES: Council Ranger District, 2092 Highway 95, Council, Idaho 83612.

SUPPLEMENTARY INFORMATION: Agenda topics will include review and approval

of project proposals, and is an open public forum.

FOR FURTHER INFORMATION CONTACT: Kimberly Brandel, Designated Federal Official, at (208) 347-0301 or e-mail kbrandel@fs.fed.us.

Dated: April 22, 2009.

Suzanne C. Rainville,

Forest Supervisor, Payette National Forest.

[FR Doc. E9-11125 Filed 5-12-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

WTO Agricultural Safeguard Trigger Levels

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of product coverage and trigger levels for safeguard measures provided for in the World Trade Organization (WTO) Agreement on Agriculture.

SUMMARY: This notice lists the updated quantity trigger levels for products which may be subject to additional import duties under the safeguard provisions of the WTO Agreement on Agriculture. This notice also includes the relevant period applicable for the trigger levels on each of the listed products.

DATES: *Effective Date:* May 13, 2009.

FOR FURTHER INFORMATION CONTACT: Lana Bennett, Import Policies and Export Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Avenue, SW., Washington, DC 20250-1021, telephone at (202) 720-0638, or e-mail itspd@fas.usda.gov.

SUPPLEMENTARY INFORMATION: Article 5 of the WTO Agreement on Agriculture provides that additional import duties may be imposed on imports of products subject to tariffication as a result of the Uruguay Round, if certain conditions are met. The agreement permits additional duties to be charged if the price of an individual shipment of imported products falls below the average price for similar goods imported during the years 1986-88 by a specified percentage. It also permits additional duties to be imposed if the volume of imports of an article exceeds the average of the most recent 3 years for which data are available by 5, 10, or 25 percent, depending on the article. These additional duties may not be imposed on quantities for which minimum or current access commitments were made

during the Uruguay Round negotiations, and only one type of safeguard, price or quantity may be applied at any given time to an article.

Section 405 of the Uruguay Round Agreements Act requires that the President cause to be published in the **Federal Register** information regarding the price and quantity safeguards, including the quantity trigger levels, which must be updated annually based upon import levels during the most recent 3 years. The President delegated this duty to the Secretary of Agriculture in Presidential Proclamation No. 6763, dated December 23, 1994, 60 FR 1005 (Jan. 4, 1995). The Secretary of

Agriculture further delegated the duty to the Administrator of the Foreign Agricultural Service (7 CFR 2.43 (a)(2) (2007)). The Annex to this notice contains the updated quantity trigger levels.

Additional information on the products subject to safeguards and the additional duties which may apply can be found in subchapter IV of Chapter 99 of the Harmonized Tariff Schedule of the United States (2007) and in the Secretary of Agriculture's Notice of Uruguay Round Agricultural Safeguard Trigger Levels, published in the **Federal Register** at 60 FR 427 (Jan. 4, 1995).

Notice: As provided in section 405 of the Uruguay Round Agreements Act,

consistent with Article 5 of the Agreement on Agriculture, the safeguard quantity trigger levels previously notified are superceded by the levels indicated in the Annex to this notice. The definitions of these products were provided in the Notice of Uruguay Round Agricultural Safeguard Trigger Levels, published in the **Federal Register**, at 60 FR 427 (Jan. 4, 1995).

Issued at Washington, DC, this 29th day of April 2009.

Patricial R. Sheikh,

Acting Administrator, Foreign Agricultural Service.

ANNEX

QUANTITY-BASED SAFEGUARD TRIGGER

Product	Trigger level	Period
Beef	317,662 mt	January 1, 2009 to December 31, 2009.
Mutton	6,808 mt	January 1, 2009 to December 31, 2009.
Cream	1,125,550 liters	January 1, 2009 to December 31, 2009.
Evaporated or Condensed Milk	5,234,255 kilograms	January 1, 2009 to December 31, 2009.
Nonfat Dry Milk	219,775 kilograms	January 1, 2009 to December 31, 2009.
Dried Whole Milk	2,239,115 kilograms	January 1, 2009 to December 31, 2009.
Dried Cream	29,393 kilograms	January 1, 2009 to December 31, 2009.
Dried Whey/Buttermilk	19,998 kilograms	January 1, 2009 to December 31, 2009.
Butter	7,514,294 kilograms	January 1, 2009 to December 31, 2009.
Butter Oil and Butter Substitutes	6,541,513 kilograms	January 1, 2009 to December 31, 2009.
Dairy Mixtures	52,092,707 kilograms	January 1, 2009 to December 31, 2009.
Blue Cheese	5,229,457 kilograms	January 1, 2009 to December 31, 2009.
Cheddar Cheese	12,279,311 kilograms	January 1, 2009 to December 31, 2009.
American-Type Cheese	8,841,320 kilograms	January 1, 2009 to December 31, 2009.
Edam/Gouda Cheese	8,013,001 kilograms	January 1, 2009 to December 31, 2009.
Italian-Type Cheese	23,312,030 kilograms	January 1, 2009 to December 31, 2009.
Swiss Cheese with Eye Formation	30,506,943 kilograms	January 1, 2009 to December 31, 2009.
Gruyere Process Cheese	5,517,302 kilograms	January 1, 2009 to December 31, 2009.
Lowfat Cheese	956,596 kilograms	January 1, 2009 to December 31, 2009.
NSPF Cheese	50,252,329 kilograms	January 1, 2009 to December 31, 2009.
Peanuts	12,096 mt	April 1, 2008 to March 31, 2009.
	15,172 mt	April 1, 2009 to March 31, 2010.
Peanut Butter/Paste	4,183 mt	January 1, 2009 to December 31, 2009.
Raw Cane Sugar	1,462,968 mt	October 1, 2008 to September 30, 2009.
	1,407,556 mt	October 1, 2009 to September 30, 2010.
Refined Sugar and Syrups	175,217 mt	October 1, 2008 to September 30, 2009.
	191,180 mt	October 1, 2009 to September 30, 2010.
Blended Syrups	72 mt	October 1, 2008 to September 30, 2009.
	107 mt	October 1, 2009 to September 30, 2010.
Articles Over 65% Sugar	669 mt	October 1, 2008 to September 30, 2009.
	578 mt	October 1, 2009 to September 30, 2010.
Articles Over 10% Sugar	16,759 mt	October 1, 2008 to September 30, 2009.
	15,617 mt	October 1, 2009 to September 30, 2010.
Sweetened Cocoa Powder	1,329 mt	October 1, 2008 to September 30, 2009.
	1,249 mt	October 1, 2009 to September 30, 2010.
Chocolate Crumb	9,296,789 kilograms	January 1, 2009 to December 31, 2009.
Lowfat Chocolate Crumb	229,577 kilograms	January 1, 2009 to December 31, 2009.
Infant Formula Containing Oligosaccharides	9,173 kilograms	January 1, 2009 to December 31, 2009.
Mixes and Doughs	243 mt	October 1, 2008 to September 30, 2009.
	315 mt	October 1, 2009 to September 30, 2010.
Mixed Condiments and Seasonings	128 mt	October 1, 2008 to September 30, 2009.
	176 mt	October 1, 2009 to September 30, 2010.
Ice Cream	2,810,259 liters	January 1, 2009 to December 31, 2009.
Animal Feed Containing Milk	23,363 kilograms	January 1, 2009 to December 31, 2009.
Short Staple Cotton	669,917 kilograms	September 20, 2008 to September 19, 2009.
	699,482 kilograms	September 20, 2009 to September 19, 2010.
Harsh or Rough Cotton	0 kilograms	August 1, 2008 to July 31, 2009.
	0 kilograms	August 1, 2009 to July 31, 2010.
Medium Staple Cotton	1,723,796 kilograms	August 1, 2008 to July 31, 2009.
	688,341 kilograms	August 1, 2009 to July 31, 2010.
Extra Long Staple Cotton	4,416,936 kilograms	August 1, 2008 to July 31, 2009.
	3,656,233 kilograms	August 1, 2009 to July 31, 2010.

QUANTITY-BASED SAFEGUARD TRIGGER—Continued

Product	Trigger level	Period
Cotton Waste	70,768 kilograms	September 20, 2008 to September 19, 2009.
	395,745 kilograms	September 20, 2009 to September 19, 2010.
Cotton, Processed, Not Spun	10,205 kilograms	September 11, 2008 to September 10, 2009.
	3,995 kilograms	September 11, 2009 to September 10, 2010.

[FR Doc. E9-11108 Filed 5-12-09; 8:45 am]

BILLING CODE 3410-10-P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-201-830)

Notice of Final Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has determined that Ternium Mexico, S.A. de C.V. (Ternium) is the successor-in-interest to Hylsa S.A. de C.V. (Hylsa) and, as a result, should be accorded the same treatment previously accorded to Hylsa in regard to the antidumping duty order on carbon and certain alloy steel wire rod (wire rod) from Mexico as of the date of publication of this notice in the *Federal Register*.

EFFECTIVE DATE: May 13, 2009.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8362.

SUPPLEMENTARY INFORMATION:**Background**

On September 3, 2008, Ternium requested that the Department conduct a changed circumstances review of the antidumping duty order on wire rod from Mexico to determine whether Ternium is the successor-in-interest to Hylsa. On November 12, 2008, the Department initiated a changed circumstances review of the antidumping duty order on wire rod from Mexico. *See Notice of Initiation of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Mexico*, 73 FR 66839 (November 12, 2008) (Notice of Initiation). On April 2, 2009, the Department made its preliminary determination that Ternium

is the successor-in-interest to Hylsa and should be treated as such for antidumping duty cash deposit purposes. *See Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Mexico*, 74 FR 14957 (April 2, 2009) (Preliminary Results). In the *Preliminary Results*, we stated that interested parties could request a hearing no later than 10 days or submit case briefs to the Department no later than 14 days after the publication of the *Preliminary Results* in the *Federal Register*, and submit rebuttal briefs, limited to the issues raised in those case briefs, seven days subsequent to the case briefs due date. We did not receive any hearing requests or comments on the *Preliminary Results*.

Scope of the Order

The merchandise subject to this order is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm. in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; (e) concrete reinforcing bars and rods; and (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality wire rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no

deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis - that is, the direction of rolling - of the rod) over thickness (measured on the same

inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003.

The designation of the products as "tire cord quality" or "tire bead quality" indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products subject to this order are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3092, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, 7227.90.6010, and 7227.90.6080 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Final Results of Changed Circumstances Review

Based on the information provided by Ternium, the Department's analysis in the *Preliminary Results*, and the fact that interested parties did not submit any comments during the comment period, the Department hereby determines that Ternium is the successor-in-interest to Hylsa for antidumping duty cash deposit purposes.

Instructions to U.S. Customs and Border Protection

The Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all shipments of the subject merchandise produced and exported by Ternium entered, or withdrawn from warehouse, for consumption, on or after the publication date of this notice in the **Federal Register** at 17.94 percent (*i.e.*, Hylsa's cash deposit rate). This deposit requirement shall remain in effect until further notice.

Notification

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is in accordance with sections 751(b) and 777(i)(1) and (2) of the Tariff Act of 1930, as amended, and 19 CFR 351.216(e).

Dated: May 6, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9-11175 Filed 5-12-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-935

Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 13, 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 certain circular welded carbon quality steel line pipe from the People's Republic of China (PRC).

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Rebecca Pandolph, 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) 482-2769 and 482-3627, 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 March 31, 2009, the Department published in the **Federal Register** its final determination in the instant investigation. *See Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 14514 (March 31, 2009).

On May 6, 2009, the ITC notified the Department of its affirmative final determination of material injury to a U.S. industry. *See Certain Circular Welded Carbon Quality Steel Line Pipe from China*, Investigation No. 731-TA-1149 (Final), USITC Publication 4075 (May 2009).

Scope of the Order

The merchandise covered by this order is circular welded carbon quality steel pipe of a kind used for oil and gas pipelines (welded line pipe), not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, length, surface finish, end finish or stenciling.

The term "carbon quality steel" includes both carbon steel and carbon steel mixed with small amounts of alloying elements that may exceed the individual weight limits for nonalloy steels imposed in the Harmonized Tariff Schedule of the United States (HTSUS). Specifically, the term "carbon quality" includes products in which (1) iron predominates by weight over each of the other contained elements, (2) the carbon content is 2 percent or less by weight and (3) none of the elements listed below exceeds the quantity by weight respectively indicated:

- (i) 2.00 percent of manganese,
- (ii) 2.25 percent of silicon,
- (iii) 1.00 percent of copper,
- (iv) 0.50 percent of aluminum,
- (v) 1.25 percent of chromium,
- (vi) 0.30 percent of cobalt,
- (vii) 0.40 percent of lead,
- (viii) 1.25 percent of nickel,
- (ix) 0.30 percent of tungsten,
- (x) 0.012 percent of boron,
- (xi) 0.50 percent of molybdenum,
- (xii) 0.15 percent of niobium,
- (xiii) 0.41 percent of titanium,
- (xiv) 0.15 percent of vanadium, or
- (xv) 0.15 percent of zirconium.

Welded line pipe is normally produced to specifications published by

the American Petroleum Institute (API) (or comparable foreign specifications) including API A-25, 5LA, 5LB, and X grades from 42 and above, and/or any other proprietary grades or non-graded material. Nevertheless, all pipe meeting the physical description set forth above that is of a kind used in oil and gas pipelines, including all multiple-stenciled pipe with an API welded line pipe stencil is covered by the scope of this order.

Excluded from this scope are pipes of a kind used for oil and gas pipelines that are multiple-stenciled to a standard and/or structural specification and have one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted surface finish; or has a threaded and/or coupled end finish. (The term "painted" does not include coatings to inhibit rust in transit, such as varnish, but includes coatings such as polyester.)

The welded line pipe products that are the subject of this order are currently classifiable in the HTSUS under subheadings 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation ordered 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 an exporter that accounted for a

significant proportion of exports of welded line pipe, we extended the four-month period to no more than six months. See *Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 66012 (November 6, 2008) (*Preliminary Determination*). In this investigation, the six-month period beginning on the date of the publication of the *Preliminary Determination* (i.e., November 6, 2008) ended on May 4, 2009.

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 welded line pipe from the PRC entered, or withdrawn from warehouse, for consumption after May 4, 2009, and before the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on or after the date of publication of the ITC's final injury determination in the **Federal Register**.

Antidumping Duty Order

On May 6, 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 welded line pipe from the PRC. Except for the entries noted above,¹ these antidumping duties will be assessed on all unliquidated entries of welded line pipe from the PRC entered, or withdrawn from the warehouse, for consumption on or after November 6, 2008, the date on which the Department published its *Preliminary Determination*. See *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 based on the estimated weighted-average antidumping duty margins listed below. The cash deposit rate for the exporter-producer combinations listed below will be 73.44 percent, which is equal to the estimated weighted-average antidumping duty margins for the exporter-producer combinations, reduced by the export subsidy rate determined for Huludao Pipe in *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order*, 74 FR 4136 (January 23, 2009). The cash deposit rate for all exporter-producer combinations not listed below will be equal to the estimated weighted-average antidumping duty margin applicable to the combination. The "PRC-wide" rate applies to all exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Exporter & Producer	Weighted-Average Margin
Huludao Steel Pipe Industrial Co., Ltd./ Huludao City Steel Pipe Industrial Co., Ltd. Produced by: Huludao Steel Pipe Industrial Co., Ltd. / Huludao City Steel Pipe Industrial Co., Ltd..	73.87%
Pangang Group Beihai Steel Pipe Corporation Produced by: Pangang Group Beihai Steel Pipe Corporation.	73.87%
Jiangsu Yulong Steel Pipe Co., Ltd. Produced by: Jiangsu Yulong Steel Pipe Co., Ltd..	73.87%
Tianjin Xingyuda Import and Export Co., Ltd. Produced by: Tianjin Lifengyuanda Steel Pipe Group Co., Ltd..	73.87%
PRC-Wide Rate	101.10%

¹ Namely, entries of welded line pipe from the PRC entered, or withdrawn from warehouse, for

consumption after May 4, 2009, and before the date

of publication of the ITC's final injury determination in the Federal Register.

This notice constitutes the antidumping duty order with respect to welded line pipe 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: May 7, 2009.

Ronald K. Lorentzen,
Acting Assistant Secretary for Import Administration.

[FR Doc. E9-11174 Filed 5-12-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP15

Endangered Species; File No. 1596-02

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

ACTION: Notice; receipt of application for modification

SUMMARY: Notice is hereby given that NMFS Southwest Fisheries Science Center (SWFSC), 3333 N. Torrey Pines Ct., La Jolla, CA 92037, has requested a modification to scientific research Permit No. 1596-01.

DATES: Written, telefaxed, or e-mail comments must be received on or before June 12, 2009.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following offices: Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713-2289; fax (301) 427-2521; and Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562) 980-4001; fax (562) 980-4018.

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a

hearing on this particular modification request would be appropriate.

Comments may also be submitted by facsimile at (301) 427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 1596-02.

FOR FURTHER INFORMATION CONTACT: Patrick Opay, (301) 713-2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 1596-01, issued on August 21, 2008, is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

Permit No. 1596-01 authorizes the permit holder to capture, measure, weigh, blood and tissue sample, photograph, flipper and PIT tag, satellite tag, and attach a VHF/TDR/sonic tag/video system to leatherback sea turtles during research activities conducted off the western coast of the continental United States. The permit holder requests authorization to annually fat biopsy and ultrasound up to 38 leatherback sea turtles as part of a health and nutritional assessment of this species. The permit holder also requests authority to close approach and attach VHR/TDR/sonic tag/GPS/video camera units by suction cup on up to 20 leatherback sea turtles annually, and to later capture the same animals to remove the unit and then sample, tag, and attach another VHR/TDR/sonic tag/GPS/video camera unit to the animals before release. Additionally, the permit holder requests authorization to annually attach a VHR/TDR/sonic tag/GPS unit and tissue sample 20 leatherback sea turtles using a biopsy pole. The permit currently authorizes researchers to attach the unit or tissue sample 20 animals, not both. The number of leatherback sea turtles captured would not increase under the modification, but the mix of activities conducted on each animal would. The research would continue to occur in waters off the coast of the western United States through February 1, 2012.

Dated: May 5, 2009.

P. Michael Payne,

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

[FR Doc. E9-11186 Filed 5-12-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP17

Endangered Species; File No. 14381

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that NMFS Pacific Islands Region, 1601 Kapiolani Boulevard, Honolulu, HI 96814, has applied in due form for a permit to take green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*), olive ridley (*Lepidochelys olivacea*), and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before June 12, 2009.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the Features box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov/index.cfm>, and then selecting File No. 14381 from the list of available applications. These documents are also available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713-2289; fax (301) 427-2521; and Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814-4700; phone (808) 944-2200; fax (808) 973-2941.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 14381.

FOR FURTHER INFORMATION CONTACT:

Patrick Opay or Kate Swails, (301) 713-2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

The research would collect scientific data on sea turtles incidentally captured in the Hawaii Deep-Set Longline Fishery, the Hawaii Shallow-Set Longline Fishery, and the American Samoa Longline Fishery. This data would assist NMFS efforts to understand sea turtle interactions with the fisheries and to mitigate their threat to these species. The applicant proposes to flipper tag, measure, photograph, tissue sample, and attach satellite tags to an anticipated annual take of up to 46 loggerhead, 16 leatherback, one green, and four olive ridley sea turtles captured in the Hawaii Deep-Set Longline Fishery. The applicant proposes to flipper tag, measure, photograph, tissue sample, and attach satellite tags to an anticipated annual take of up to six loggerhead, one leatherback, six green, six olive ridley, and six hawksbill sea turtles captured in the American Samoa Longline Fishery. The applicant proposes to flipper tag, measure, photograph, tissue sample, and attach satellite tags to an anticipated annual take of up to six (18 over three years) loggerhead, 13 (39 over three years) leatherback, seven (21 over three years) green, and 41 (123 over three years) olive ridley sea turtles captured in the Hawaii Shallow-Set Longline Fishery. The research would occur in the Pacific Ocean through April 1, 2015. No mortalities are expected from the research. Researchers would also collect sea turtle carcasses of animals killed in fishery activities that occur in the Pacific Ocean.

Dated: May 6, 2009.

P. Michael Payne,

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

[FR Doc. E9-11190 Filed 5-12-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP18

Marine Mammals; File Nos. 14324 through 14337, except 14333

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

ACTION: Notice; receipt of applications.

SUMMARY: Notice is hereby given that the following institutions, organizations, and individuals have applied for permits to conduct research on Steller sea lions (*Eumetopias jubatus*) and northern fur seals (*Callorhinus ursinus*): Alaska SeaLife Center (ASLC), Seward, AK; Alaska Department of Fish and Game (ADF&G), Division of Wildlife Conservation, Juneau, Alaska; NMFS National Marine Mammal Laboratory (NMML), Seattle, WA; North Pacific Universities Marine Mammal Research Consortium (NPUMMRC), University of British Columbia, Vancouver, B.C., Canada; Aleut Community of St. Paul Island (ACSPI), Tribal Government, Ecosystem Conservation Office, St. Paul Island, AK; Aleut Community of St. George Island (ACSGI), St. George Traditional Council, St. George Island, AK; and Markus Horning, Ph.D., Marine Mammal Institute, Oregon State University, Newport, OR.

DATES: Written, telefaxed, or e-mail comments must be received on or before June 29, 2009.

ADDRESSES: The applications and related documents are available for review by selecting "Records Open for Public Comment" from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting the applicable File No. from the list of available applications.

These documents are also available upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713-2289; fax (301) 427-2521;

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115-0700; phone (206) 526-6150; fax (206) 526-6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; phone (907) 586-7221; fax (907) 586-7249; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562) 980-4001; fax (562) 980-4018.

Written comments on these applications should be mailed to the Chief, Permits, Conservation and Education Division at the address listed above. Comments may also be submitted by facsimile to (301) 427-2521, or by email to

NMFS.Pr1Comments@noaa.gov. Please include the applicable File No. in the subject line of the e-mail comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on a particular application would be appropriate.

FOR FURTHER INFORMATION CONTACT:

Tammy Adams, Kate Swails, or Amy Sloan, (301) 713-2289.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*). The following are brief summaries of the applications. For details, please review the actual permit applications, available on-line or by written request (see **ADDRESSES**).

File No. 14324: The applicant, ASLC, (Principal Investigator: John Maniscalco), requests a five-year permit to investigate causes for the Steller sea lion population decline and determine what is currently limiting its recovery. Research would involve (maximum number of animals per year in parentheses): disturbance associated with capture, observational studies, and material/scat/carcass collection (8,500); capture, restraint, and sampling (200); and remote biopsy (150). Captured sea lions would undergo morphometrics measurement; blood and tissue collection; digital imaging; hot-branding; body condition measurement;

whisker, hair, and milk sampling; temporary marking; and ultrasound exams. Research would occur in the Gulf of Alaska and Aleutian Islands, on Steller sea lions of the western Distinct Population Segment (DPS). The applicant also requests authorization for annual unintentional mortality of 1 Steller sea lion from the western DPS.

File No. 14325: The applicant, ADF&G, (Principal Investigator: Lorrie Rea, Ph.D.), requests a five-year permit to continue a long-term research program investigating the various hypotheses for the decline or lack of recovery of Steller sea lions in AK. Research would involve (maximum number of animals per year in parentheses): incidental disturbance during aerial surveys (20,000 eastern DPS); disturbance of animals on rookeries and haulouts during brand resighting surveys (30,000 eastern DPS, 8,000 western DPS) and incidental to scat collection, capture for instrument attachment, capture for branding, capture method development, physiological research and sample collection (83,700 eastern DPS, and 8,700 western DPS); permanent marking of pups for long-term demographic and distribution studies (800), capture of older animals (20 western DPS, 60 eastern DPS) for physiological assessment and attachment of scientific instruments to investigate foraging ecology, diving behavior and habitat use. An additional 200 animals of any age may be instrumented without capture (150 eastern DPS, 50 western DPS). The applicant also requests authorization for annual unintentional mortality of 5 Steller sea lions from the western DPS and 10 Steller sea lions from the eastern DPS. Harbor seals (*Phoca vitulina richardsi*), northern fur seals, and California sea lions (*Zalophus californianus*) may be disturbed incidentally during the course of this research.

File No. 14326: The applicant, NMML, (Principal Investigator: Tom Gelatt, Ph.D.), requests a five-year permit to measure population status, vital rates, foraging ecology, habitat requirements, and effects of natural and anthropogenic factors for Steller sea lion in the North Pacific Ocean, including rookeries and haulouts in CA, OR, WA, and AK. Annually in the western DPS, up to 59,500 sea lions may be exposed to aerial surveys, 1,000–6,520 to rookery-based activities, and 12,700 to other incidental activities. Up to 600 Steller sea lions could be captured, with up to 190 having blood, skin, and swab samples collected, 250 hot-branded, and up to 50 blubber and lesion biopsied, vibrissa removed, and subject to

stomach intubation. Instruments would be attached on up to 50, and 50 would receive a non-permanent mark if not hot-branded. Annually in the eastern DPS, up to 27,800 may be exposed to aerial surveys, and 13,100 to incidental activities. Up to 220 could be captured, and have blood, skin, blubber, fecal, and culture samples collected, a vibrissa removed, hot-brand, tag or non-permanent mark applied, and have an instrument attached. Non-target species that may be harassed incidental to Steller sea lion research include northern fur seals in AK, California sea lions and northern elephant seals (*Mirounga angustirostris*) in WA, OR, and CA, and harbor seals (*P. vitulina*) in all states.

File No. 14327: The applicant, NMML, (Principal Investigator: Rolf Ream, Ph.D.), requests a five-year permit to investigate population status and trends, demographic parameters, health and condition, and foraging ecology of northern fur seals in U.S. waters, including rookeries and haulouts in CA and AK. Research on the San Miguel Island stock would involve (maximum number of animals per year in parentheses): capture, restraint, and sampling (700) and incidental disturbance (35,725). Research on the Eastern Pacific stock would involve (maximum number of animals per year in parentheses): capture, restraint and sampling (22,820 in 3 of 5 years; 9,320 in 2 of 5 years) and incidental disturbance (355,125 in 3 of 5 years; 156,000 in 2 of 5 years). The applicant requests authorization for research-related mortality of 7 animals per year from the San Miguel Island Stock and 11 animals per year from the Eastern Pacific stock. The applicant also requests authorization for incidental harassment of 150 western DPS Steller sea lions and 18,700 California sea lions annually.

File No. 14328: The applicant, ASLC, (Principal Investigator: Alan Springer, Ph.D.), requests a five-year permit to characterize the winter habitat, movement patterns, diets and general health of adult male northern fur seals in the Bering Sea and northern North Pacific Ocean. Annually, up to 5 animals in AK would be captured, satellite tagged, blubber biopsied, blood sampled, and a vibrissa would be pulled for stable isotope analysis. Up to 200 northern fur seals in AK may be incidentally harassed during the research activities. The applicant requests authorization for 1 research-related mortality per year.

File No. 14329: The applicant, NPUMMRC, (Principal Investigator: Andrew Trites, Ph.D.) requests a five-

year permit to test hypotheses that might explain the decline of northern fur seals in AK and offer solutions for recovery. The proposed research includes studies on foraging ecology, demographics, behavior, and changes in body size. The applicant also proposes to complete a pilot study to determine the feasibility of branding as a viable marking method. Research activities would involve (maximum number of animals per year in parentheses): disturbance associated with capture, observational studies, and scat collection (39,130); and capture, restraint, tissue sampling, and marking (2,335). NPUMMRC requests authorization for the annual research-related mortality of 14 adult females, 8 juvenile males, and 24 pups. NPUMMRC also requests authorization for harassment of 600 western DPS Steller sea lions annually incidental to the research.

File No. 14330 and File No. 14331: The applicants, ACSPI (File No. 14330), (Principal Investigator: Phillip A. Zavadii), and ACSGI (File No. 14331), (Principal Investigator: Chris Merculief), request five-year permits to fulfill their Biosampling, Disentanglement, and Island Sentinel program responsibilities as established under the co-management agreement between NMFS and the Aleut Communities. Work by ACSPI would occur on St. Paul Island, AK and work by ACSGI would occur on St. George Island, AK. The applicants request authorization for incidental disturbance of up to 850 northern fur seals on St. Paul Island and 450 animals per year on St. George Island during the collection of biological samples from dead stranded and subsistence hunted marine mammals. These samples would be exported to researchers studying the decline of northern fur seals. Annually, up to 8,500 northern fur seals on St. Paul Island and 6,050 on St. George Island may be disturbed during disentanglement events. The Island Sentinel program may result in the disturbance of up to 3,400 northern fur seals per year on St. Paul Island and 9,000 animals on St. George Island during haulout and rookery observations, monitoring, and remote camera maintenance per year. Steller sea lions and harbor seals may be disturbed during the course of these activities.

File No. 14334: The applicant, ASLC, (Principal Investigator: Lori Polasek, Ph.D.), requests a five-year permit to investigate reproductive physiology of captive adult Steller sea lions (permanently captive eastern stock) and survival, growth, and physiology of captive-bred offspring. ASLC also

proposes to deploy biotelemetry instruments on the captives to develop and validate methods for monitoring wild Steller sea lions. Research would be conducted on one adult male, up to four adult females, and up to six offspring, and would include the following activities: mass and morphometric measurements; ultrasound; capture, sedation, and anesthesia; blood sampling and administration of Evan's blue dye and deuterium oxide; feces, urine, semen, and milk collection; video/audio recordings; genital swabs; radiographs; dietary supplements; blubber biopsy; and attachment of biotelemetry instrumentation. ASLC also requests authorization to transfer to and import from approved North American facilities up to two male and four female Steller sea lions, not to exceed 11 animals held at ASLC for use in research. ASLC requests up to two research-related mortalities over the course of the permit. No research would occur on wild populations or affect non-target species.

File No. 14335: The applicant, ASLC, (Principal Investigator: JoAnn Mellish, Ph.D.), requests a five-year permit to investigate the decline of the western stock of Steller sea lions and its failure to recover, and to assist recovery efforts. Data would be obtained on juvenile survival, epidemiology, endocrinology, immunology, virology, physiology, ontogenetic and annual body condition cycles, foraging behavior and habitat selection. Up to 20 pups (8–11 months) and 32 juveniles (12–48 months) of both sexes may be captured per year, with a subset of up to 12 juveniles (12–48 months) of both sexes selected for temporary quarantine captivity at the South Beach facility at the ASLC. Research activities would include capture/handle/release (floating trap, underwater lasso), drug administration (IM, IV, oral, subcutaneous, topical), anesthesia, temporary captivity, fecal and urine collection, instrument attachment (external and internal), marking, measuring, behavioral observations, photogrammetry, restraint, sampling (blood, blubber biopsy, clip hair, fecal swab, blubber and muscle biopsy, nasal swab, oral swab, skin biopsy, vibrissae pull, stable isotopes and serial blood samples), transport, ultrasound, unintentional mortality, weigh and x-ray. Up to 3,500 individuals of all ages, either sex, may be incidentally harassed annually. Two research-related mortalities per year are requested. The location of activities would include the Gulf of Alaska and the ASLC.

File No. 14336: The applicant, Dr. Horning, requests a five-year permit to determine survival rates, emigration, causes of mortality, predation, and collect long-term forage effort data, in juvenile eastern DPS sea lions, using surgically implanted scientific instruments called Life History Transmitters (LHX tags). Up to 50 pups and 50 juveniles of both sexes would be captured for sampling and LHX tag deployment at Hazy Islands and in Frederick Sound, AK annually (100 animals total per age class). LHX tags would also be opportunistically deployed in carcasses of dead Steller sea lions in AK, OR, and CA, and in California sea lions in OR and CA to assess uplink failure rates. Remote monitoring (using still, video, and infrared cameras) for censusing, brand re-sighting, attendance patterns, and estimating body mass, condition and health trends would be conducted at Long Island, AK and Sea Lion Caves and Cascade Head, OR. Up to 900 individuals of all ages and either sex in the western DPS and 8,800 in the eastern DPS of all ages may be incidentally harassed annually. The applicant also requests authorization for 5 research-related mortalities of eastern DPS animals per year.

File No. 14337: The applicant, NPUMMRC, (Principal Investigator: Andrew Trites, Ph.D.), requests a five-year permit to conduct studies of Steller sea lion diets, distributions, life history traits, physiology and the timing of weaning in AK. NPUMMRC also proposes to evaluate pain experienced by Steller sea lions during hot-iron branding conducted by researchers operating under separate permits. Research activities would involve (maximum number of animals per year in parentheses): disturbance associated with capture, observational studies, and scat collection (10,720 eastern DPS; 28,220 western DPS); and capture, restraint, tissue sampling, and marking (126 eastern DPS; 206 western DPS). NPUMMRC requests authorization for the annual research-related mortality of 2 eastern DPS pups, 2 western DPS pups during marking and 4 eastern DPS sea lions of any age, and 4 western DPS sea lions of any age during other studies. NPUMMRC also requests authorization for harassment of 15 northern fur seals, 5 California sea lions, 10 northern elephant seals, 60 harbor seals, and 5 killer whales (*Orcinus orca*) in AK annually incidental to the research on Steller sea lions.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the

activities proposed are consistent with the Preferred Alternative in the Final Programmatic Environmental Impact Statement (PEIS) for Steller Sea Lion and Northern Fur Seal Research (NMFS 2007), and that issuance of the permits would not have a significant adverse impact on the human environment.

As established under the Preferred Alternative, NMFS proposes to authorize annual cumulative research-related mortality of up to 15 percent of the Potential Biological Removal levels for each stock. These annual allowances would include observed and unobserved mortalities, and be calculated based on the nature of the research. The numbers of research-related mortalities permitted may be higher or lower than those requested by the applicants.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the applications to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 7, 2009.

P. Michael Payne,

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

[FR Doc. E9–11198 Filed 5–12–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Second Smart Grid Interoperability Standards Interim Roadmap Public Workshop

AGENCY: National Institute of Standards and Technology (NIST), United States Department of Commerce.

ACTION: Notice of public workshop.

SUMMARY: The National Institute of Standards and Technology announces that a free two-day public workshop on Smart Grid standards will be held on May 19–20, 2009, in the Washington, DC area.

DATES: The free public workshop will be held on May 19 and 20, 2009, from 8 a.m. to 5 p.m.

ADDRESSES: The free public workshop will be held in the Washington, DC, area at the Gaylord National Hotel and Convention Center, 201 Waterfront Street, National Harbor, MD 20745. The location and registration information will be posted at: <http://www.nist.gov/smartgrid/>. Those interested in attending also can call Ashley Eldrege of the Electric Power Research Institute, on

650–855–2063 to register, or send a message to smartgrid@nist.gov.

FOR FURTHER INFORMATION CONTACT:

Zulma Lainez at 301–975–2232 or by e-mail at smartgrid@nist.gov.

SUPPLEMENTARY INFORMATION: Under the Energy Independence and Security Act (EISA) of 2007 (Pub. L. 110–140), the National Institute of Standards and Technology (NIST) has “primary responsibility to coordinate development of a framework that includes protocols and model standards for information management to achieve interoperability of smart grid devices and systems * * *” (EISA, section 1305)

In 2008, responding to this mandate, NIST initiated a government/industry effort to develop and achieve consensus on an Interoperability Framework and to engage the many Smart Grid stakeholders in a coordinated approach to identify or develop needed standards. This coordinated effort was designed and initiated in full collaboration with the Department of Energy. In early 2009, responding to President Obama’s energy-related national priorities, NIST intensified and expedited efforts to accelerate progress toward stakeholder consensus on Smart Grid standards.

On April 28–29, 2009 an initial workshop was held in Reston, VA at which stakeholders engaged in discussions of Smart Grid architecture and requirements, and existing standards or standards under development that could be used as a foundation for Smart Grid interoperability standards. The May 19–20 workshop will continue the stakeholder consensus process by identifying additional standardization needs and providing input to a roadmap for their development. NIST has contracted with EPRI to facilitate both workshops. As specified in its contract with NIST, EPRI will utilize its technical expertise to compile, distill and organize stakeholder contributions

into a draft interim roadmap for Smart Grid interoperability standards. The workshops and the interim roadmap document, coordinated by EPRI under its contract, provide an input to the NIST effort to expedite development of key standards for the Smart Grid. By early fall, NIST expects to describe an initial Smart Grid architecture, priorities for interoperability standards, including cybersecurity; an initial set of standards to support support implementation; and plans to meet remaining standards needs.

NIST will submit standards that are identified or developed through this process to the Federal Energy Regulatory Commission (FERC). Once FERC determines that there is sufficient consensus, EISA instructs FERC to institute a rulemaking proceeding to adopt the standards and protocols that may be necessary to ensure that there is Smart Grid functionality and interoperability in interstate transmission of electric power, and in regional and wholesale electricity markets.

Plenary and break-out sessions at the May 19–20 workshop will cover a range of power, communication, and cybersecurity issues. Particular emphasis will be given to four high-priority Smart Grid applications identified by FERC: Demand Response, Electric Transportation, Wide-Area Visualization, and Storage.

Additional Information: More information is available on the NIST Smart Grid project Web site at: <http://www.nist.gov/smartgrid/>. To help it fulfill its mandate to facilitate Smart Grid standards interoperability, NIST also manages a Smart Grid collaboration Web site at: <http://collaborate.nist.gov/wiki-sggrid/bin/view/SmartGrid/WebHome>. NIST recently contracted with the Electric Power Research Institute (EPRI) to perform services related to NIST’s effort to coordinate development of Smart Grid standards. The contract requires EPRI to help NIST

organize and facilitate two workshops at which stakeholders will present, review, develop, and work toward consensus on roadmap content and to use its technical expertise to compile, distill, and organize stakeholder contributions into a draft interim roadmap for smart grid interoperability standards. This notice announces the second of those workshops. All EPRI outputs under the contract are subject to NIST review and approval and are owned by NIST.

Dated: May 6, 2009.

Richard F. Kayser,

Chief Scientist.

[FR Doc. E9–11096 Filed 5–12–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 09–17]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 09–17 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 4, 2009.

Patricia L. Toppings,

*OSD Federal Register, Liaison Officer,
Department of Defense.*



**DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408**

APR 06 2009

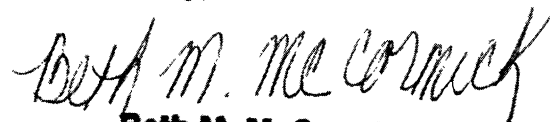
**The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, DC 20515-6501**

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No.

09-17, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost \$560 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,


**Beth M. McCormick
Deputy Director**

Enclosures:

- 1. Transmittal**
- 2. Policy Justification**
- 3. Sensitivity of Technology**

Same ltr to:

House

**Committee on Foreign Affairs
Committee on Armed Services
Committee on Appropriations**

Senate

**Committee on Foreign Relations
Committee on Armed Services
Committee on Appropriations**

Transmittal No. 09-17

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended**

- (i) **Prospective Purchaser:** Australia
- (ii) **Total Estimated Value:**

Major Defense Equipment*	\$350 million
Other	<u>\$210 million</u>
TOTAL	\$560 million
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** seven CH-47F CHINOOK Helicopters with 14 (2 per aircraft) T55-GA-714A Turbine engines, 7 M134D Dillon Aero Miniguns, 16 AN/ARC-201D Single Channel Ground and Airborne Radios (SINCGARS), 7 Force XXI Battle Command Brigade and Below Blue Force Trackers (FBCB2/BFT), 2 spare T-55-GA-714A Turbine engines, mission equipment, communication and navigation equipment, ground support equipment, spare and repair parts, special tools and test equipment, technical data and publications, personnel training and training equipment, contractor technical and logistics personnel services, and other related elements of logistics support.
- (iv) **Military Department:** Army (UDK)
- (v) **Prior Related Cases, if any:** none
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** APR 06 2009

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Australia – CH-47F CHINOOK Helicopters

The Government of Australia has requested a possible sale of seven CH-47F CHINOOK Helicopters with 14 (2 per aircraft) T55-GA-714A Turbine engines, 7 M134D Dillon Aero Miniguns, 16 AN/ARC-201D Single Channel Ground and Airborne Radios (SINCGARS), 7 Force XXI Battle Command Brigade and Below Blue Force Trackers (FBCB2/BFT), 2 spare T-55-GA-714A Turbine engines, mission equipment, communication and navigation equipment, ground support equipment, spare and repair parts, special tools and test equipment, technical data and publications, personnel training and training equipment, contractor technical and logistics personnel services, and other related elements of logistics support. The estimated cost is \$560 million.

Australia is one of our most important allies in the Western Pacific. The strategic location of this political and economic power contributes significantly to ensuring peace and economic stability in the region. Australia's efforts in peacekeeping and humanitarian operations in Iraq and in Afghanistan have had a significant impact on regional political and economic stability and have served U.S. national security interests. This proposed sale is consistent with those objectives and facilitates burden sharing with our allies.

The proposed sale of the CH-47F CHINOOK helicopters and components to Australia will contribute to U.S. security objectives by providing a coalition partner with significantly improved airlift capability. This will improve the Royal Australian Army's ability to participate in coalition operations, enhance the capacity of Australia's Defense Forces to provide lift for ground forces and supplies in support of humanitarian assistance/disaster relief, and to contribute to stability operations in the Asia-Pacific region. Australia will have no difficulty absorbing these helicopters into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractors will be: Boeing Integrated Defense Systems in St. Louis, MO; Rockwell Collins in Cedar Rapids, IA; and ITT in Fort Wayne, IN. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of two contractor representatives to Australia for approximately 3 years to support delivery of the CH-47F helicopters in-country. Also, approximately 6 U.S. Government personnel will participate in program management and/or technical reviews in-country for one to two-week intervals annually.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 09-17

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act**

**Annex
Item No. vii**

(vii) Sensitivity of Technology:

1. The CH-47F CHINOOK is a medium lift helicopter, remanufactured from CH-47D aircraft with the Common Avionics Architecture System (CAAS) cockpit, which provides aircraft system, flight, mission, and communication management systems, five multifunction displays, two general purposed processor units, two control display units, and two data concentrator units. The Navigation System will have two Embedded GPS/INS, two Digital Advanced Flight Control Systems (DAFCS), one ARN-149 Automatic Direction Finder, one ARN-147 (VOR/ILS marker Beacon System), one ARN-153 TACAN, two air data computers, and one Radar Altimeter system. The aircraft survivability equipment includes the APR-39A(V)4 Radar Signal Detecting Set, and the Common Missile Warning System which consists of the AN/ALQ-212 Advanced Threat Infrared Countermeasures and the AN/AAR-57 Common Missile Warning System.

a. The AN/ARC-201D Single Channel Ground and Airborne Radio System (SINCGARS) is a tactical airborne radio subsystem that provides secure, anti-jam voice and data communication. The enhanced Data Modes (EDM) of the radio employs a Reed-Solomon Forward Error Correction (FEC) technique that provides enhanced bit-error-rate performance. The EDM Packet Data Mode supports packet data transfer from the airborne host computer to another airborne platform or the ground-based equivalent SINCGARS system. Performance capabilities, ECM/ECCM specifications and Engineering Change Orders (ECOs) are classified Secret.

b. The TSEC KY-58 voice secure equipment is used with the FM Command Radio to provide secure two-way communication. It is communication security (COMSEC) equipment that has sensitive technology and is classified Confidential if software fill is installed.

c. The TSEC KY-100 voice secure equipment is used with the FM Command Radio to provide secure two-way communication. It is COMSEC Equipment that has sensitive technology and is classified Secret if software fill is installed.

d. The AN/APR-39 Series Radar Detecting Set (RDS) are sensitive items and classified Secret if the Unit Data Module has threat data software installed. It uses a digital processor and alphanumeric display to provide warning of radar directed air defense threat systems. The system is capable of detecting all pulse radar normally associated with hostile surface-to-air missiles, airborne intercepts and anti-aircraft weapon systems. The software for this system determines the classification. Normally a customer has specific software developed to meet its requirements.

e. The AN/APX-118 transponder system provides automatic radar identification of the helicopter. The system receives, decodes, and replies to interrogations on modes 1,2,3/A,4.C and S from all suitable equipped challenging airborne and ground facilities. The receiver operates on 1,300 MHZ and the transmitter section operates on a frequency of 1090MHZ. Because these frequencies are in the UHF band, the operational range is limited to line-of-site. The transponder is classified Secret if MODE IV or MODE S fill is installed in the equipment with a crypto device.

f. The AN/AVS-6/7(V)1 is a lightweight, high performance passive third generation image intensifier system designed specifically for use by helicopter pilots during night flights. It is designed to recognize terrain obstacles at an altitude of 200 feet and below, at a maximum speed of 150 knots, and at light levels down to overcast starlight. The system mounts on an SPH-4 helmet using a mount assembly that replaces the normal visor. It consists of a binocular system with each monocular unit composed of an objectives lens assembly, an 18mm third generation image intensifier tube assembly, and an eyepiece assembly. The Heads Up Display is a modification to the AN/AVS-6 system. It will collect and display critical flight information from aircraft sensors and convert this information into visual imagery. This system will allow continuous heads-up flight by the pilot while reducing the pilots need to look inward at the flight instrument panel.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. E9-10936 Filed 5-12-09; 8:45 am]

BILLING CODE 5001-06-M

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Contract Financing (OMB Control Number 0704-0321)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through July 31, 2009. DoD proposes that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by July 13, 2009.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704-0321, using any of the following methods:

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

- *E-mail:* dfars@osd.mil. Include OMB Control Number 0704-0321 in the subject line of the message.

- *Fax:* 703-602-7887.

- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Julian Thrash, OUSD(AT&L)DPAP(DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062.

- *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Julian Thrash, 703-602-0310. The information collection requirements addressed in this notice are available on the World Wide Web at: <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>. Paper copies are available from Mr. Julian Thrash, OUSD(AT&L) DPAP(DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) part 232, Contract Financing, and the clause at 252.232-7002, Progress Payments for Foreign Military Sales Acquisitions; OMB Control Number 0704-0321.

Needs and Uses: Section 22 of the Arms Export Control Act (22 U.S.C. 2762) requires the U.S. Government to use foreign funds, rather than U.S. appropriated funds, to purchase military equipment for foreign governments. To comply with this requirement, the Government needs to know how much to charge each country. The clause at 252.232-7002, Progress Payments for Foreign Military Sales Acquisitions, requires each contractor whose contract includes foreign military sales (FMS) requirements to submit a separate progress payment request for each progress payment rate, and to submit a supporting schedule that clearly distinguishes the contract's FMS requirements from U.S. requirements. The Government uses this information to determine how much of each country's funds to disburse to the contractor.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 5,310 (includes 1,770 response hours plus 3,540 recordkeeping hours).

Number of Respondents: 295.

Responses per Respondent: Approximately 12.

Annual Responses: 3,540.

Average Burden per Response: .5 hours (Average recordkeeping per respondent is 12 hours).

Frequency: On occasion.

Summary of Information Collection

This information collection includes requirements relating to DFARS part 232, Contract Financing, and the related

clause at DFARS 252.232-7002, Progress Payments for Foreign Military Sales Acquisitions.

a. DFARS 232.502-4-70(a) prescribes use of the clause at DFARS 252.232-7002 in any contract that provides for progress payments and contains FMS requirements.

b. The clause at DFARS 252.232-7002 requires the contractor to submit a separate progress payment request for each progress payment rate, and to submit a supporting schedule that distinguishes the contract's FMS requirements from U.S. requirements.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

[FR Doc. E9-11069 Filed 5-12-09; 8:45 am]

BILLING CODE 5001-08-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 12, 2009.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395-5806 or send e-mail to oir_submission@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice

containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 8, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: 2010 National Assessment of Education Progress (NAEP) Wave 1.

Frequency: Once.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 109,140.

Burden Hours: 28,140.

Abstract: The National Assessment of Educational Progress (NAEP) is a Federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, and the arts. In the current legislation that reauthorized NAEP (The No Child Left Behind Act of 2001 (Pub. L. 107-110)), Congress mandated again the collection of national education survey data through a national assessment program. The 2010 Wave 1 submittal contains the student background questionnaires being used in the 2010 assessments: Grades 4, 8, and 12 core (demographic) and subject-specific (civics, geography, U.S. history, writing, and mathematics), as well as the grades 4 and 8 teacher questionnaires; and the grades 4, 8, and 12 school questionnaires.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894-0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 4034. When

you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically mailed to the Internet address ICDocketMgr@ed.gov or faxed to 202-401-0920. Please specify the complete title of the information collection when making your request.

[FR Doc. E9-11206 Filed 5-12-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 12, 2009.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395-5806 or send e-mail to oir_submission@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2)

Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 8, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Planning, Evaluation and Policy Development

Type of Review: New.

Title: Evaluation of the Teaching American History Grants Program: Data Collection Instruments.

Frequency: Annually.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 128.

Burden Hours: 139.

Abstract: This evaluation is the first systematic study of the Teaching American History (TAH) Grants Program that focuses on the relationship between program practices and outcomes. In particular, this evaluation will focus on TAH program contributions to teacher content knowledge and student achievement. The data collection activities for which we are seeking OMB approval are the case studies portion of the evaluation. The purpose of the case study visits will be to deepen our understanding of the factors and conditions that support improved outcomes in student achievement and teacher content knowledge as a result of participation in the grant and to describe practices for various subgroups of teachers. This evaluation (including the case studies portion of which we are seeking OMB approval) is crucial for establishing whether the TAH program is working as intended by Congress, and for identifying which elements of the program are most effective.

Requests for copies of the information collection submission for OMB review may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 3955. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically mailed to the Internet address ICDocketMgr@ed.gov or faxed to 202-

401-0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E9-11203 Filed 5-12-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

State Fiscal Stabilization Fund Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice announcing application deadline.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.394 and 84.397.

SUMMARY: Under the State Fiscal Stabilization Fund (Stabilization) program, authorized in Title XIV of the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, the U.S. Department of Education (Department) awards grants on a formula basis to Governors to help stabilize State and local government budgets in order to minimize and avoid reductions in education and other essential public services. The Department is awarding Stabilization funds in two phases. In Phase 1, the Department will award 67 percent of the total funds available to a State, unless the State can demonstrate that additional funds are required to restore fiscal year 2009 State support for education. In that case, the Department will award up to 90 percent of its total allocation in Phase 1. The Department will award the remaining portion of a State's allocation in Phase 2. In this notice, we establish the deadline by which a Governor must submit the State's application for Phase 1 funding under the Stabilization program.

Application Deadline: July 1, 2009, 4:30:00 p.m. Washington, DC time.

Governors must submit an application electronically by the deadline in this notice. If a Governor fails to submit the State's application by this deadline, the State will not receive any Phase 1 or Phase 2 Stabilization funds.

SUPPLEMENTARY INFORMATION: There are two components of the Stabilization program: the Education Stabilization Fund (CFDA No. 84.394) and the

Government Services Fund (CFDA No. 84.397). By statute, the Department will award 81.8 percent of a State's total Stabilization allocation under the Education Stabilization Fund and the remaining 18.2 percent of its allocation under the Government Services Fund. Governors will apply for funding for each component under a single application. The application is available on the Department's Web site at <http://www.ed.gov/programs/statestabilization/applicant.html>.

If a Governor does not submit the State's application for Phase 1 funding by the deadline in this notice, the Department will allocate the funds that were reserved for the State to those States that have submitted timely applications. A State that fails to submit an application by the deadline in this notice will not receive any Phase 1 or Phase 2 Stabilization funds.

Electronic Submission of Applications: A Governor must submit an electronic version of his/her State's application in .PDF (Portable Document) format to

Stabilizationfundapplication@ed.gov by July 1, 2009, 4:30:00 p.m., Washington, DC time. A Governor also must mail the original and two copies of the application to: Dr. Joseph C. Conaty, Director, Academic Improvement and Teacher, Quality Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E314, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mr. James Butler, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E108, Washington, DC 20202. Telephone: (202) 260-9737 or via e-mail: state.fiscal.fund@ed.gov.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities can obtain this notice in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access To This Document: You can view this document, as well as other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government

Printing Office (GPO), toll-free, at 1-888-293-6498; or in the Washington DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official version of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Program Authority: Title XIV, Division A, American Recovery and Reinvestment Act of 2009, Public Law 111-5.

Delegation of Authority: The Secretary of Education has delegated to Joseph C. Conaty, Director, Academic Improvement and Teacher Quality Programs for the Office of Elementary and Secondary Education, the authority to perform the functions of the Assistant Secretary for Elementary and Secondary Education.

Dated: May 8, 2009.

Joseph C. Conaty,

Director, Academic Improvement and Teacher Quality Programs.

[FR Doc. E9-11200 Filed 5-12-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13301-002]

Town of Afton, WY; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

May 6, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

- a. *Type of Application:* Minor license.
- b. *Project No.:* 13301-002.
- c. *Date filed:* April 29, 2009.
- d. *Applicant:* Town of Afton.
- e. *Name of Project:* Culinary Water System Hydroelectric Project.
- f. *Location:* On the culinary water supply system, in the Town of Afton, Lincoln County, Wyoming. The project would occupy 12.3 acres of land in the Bridger-Teton National Forest.
- g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).
- h. *Applicant Contact:* Town of Afton, James K. Sanderson, 416 Washington St., P.O. Box 310, Afton, WY 83110.
- i. *FERC Contact:* Ryan Hansen, 202-502-8074. Ryan.hansen@ferc.gov.
- j. *Cooperating agencies:* Federal, State, local, and tribal agencies with jurisdiction and/or special expertise

with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l 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. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: June 28, 2009.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Additional study requests and requests for cooperating agency status 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."

m. The application is not ready for environmental analysis at this time.

n. The project consists of the following facilities: (1) An intake at Periodic Springs; (2) an existing 97,000 gallon buried concrete surge tank; (3) an existing 16,775-foot-long, 18-inch-diameter iron ductile pipe; (4) a new approximately 95-foot-long, 2-foot-diameter ductile iron penstock conveying flows from the existing pipe to the new powerhouse; (5) a 20-foot-long by 20-foot-wide powerhouse containing a single Pelton turbine and generator with an installed capacity of 225 kilowatts (kW); (6) an approximately 10-foot-long, 2.5-foot-diameter draft tube discharging flows from the powerhouse to an existing access hatchway at the top of the storage tank; (7) a one-million-gallon storage tank; and (8) appurtenant facilities. The power generated will intertie with the existing 12.5-kilovolt distribution

system at the culinary water treatment plant.

The Culinary Water System Hydroelectric Project would utilize some features from the Town of Afton's existing culinary water supply system. Under current operating conditions, water is piped from Periodic Springs to a buried concrete surge tank. From this tank, water is routed to a water treatment plant, and then to a storage tank before distribution. The new hydroelectric project will divert flow at an existing bifurcation in the conveyance pipe, upstream of the treatment plant. Flows up to 12 cubic feet per second (cfs) will be diverted to the powerhouse for hydropower generation, then discharged directly to the storage tank, bypassing the current treatment plant. The proposed project would have a total installed capacity of 225 kW and would produce an average annual generation of 1,272,463 kilowatt-hours. The generated power would be utilized to offset the energy used by the culinary water system, with net power sold to Lower Valley Energy, Inc. The project will operate as a run-of-river, with any flows in excess of the turbine capacity of 12 cfs bypassing the project to the existing treatment plant.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Wyoming State Historic Preservation Officer (SHPO), as required by Section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR at 800.4.

q. *Procedural schedule:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Acceptance Letter; July 6, 2009.

Issue Scoping Document for comments; August 5, 2009.

Notice that application is ready for environmental analysis; November 3, 2009.

Notice of the availability of the EA; March 3, 2010.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-11112 Filed 5-12-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3052-016]

City of Black River Falls; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, and Terms and Conditions

May 6, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 3052-016.

c. *Date Filed:* April 9, 2009.

d. *Applicant:* City of Black River Falls.

e. *Name of Project:* Black River Falls Project.

f. *Location:* The project is located on the Black River in the City of Black River Falls, Jackson County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Mr. Jerry Ewert, Administrator, Black River Falls Municipal Utilities, 119 North Water Street, Black River Falls, Wisconsin 54615, (715) 284-9463.

i. *FERC Contact:* Mr. Steven Sachs (202) 502-8666 or Steven.Sachs@ferc.gov.

j. Deadline for filing motions to intervene and protests, comments, recommendations, and preliminary terms and conditions, is 60 days from the issuance of this notice; reply comments are due 105 days from the issuance date of this notice. All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

k. *Description of Request:* The applicant proposes to replace eight existing tainter gates and associated concrete piers with six larger tainter gates and concrete piers. The applicant also proposes to construct a new

powerhouse containing a new 410 kW turbine/generator unit situated between the gated spillway and non-overflow section of the dam. The applicant also proposes to replace the left non-overflow section of the dam, replace the retaining wall on the left side of the tailrace, and to patch concrete on the overflow spillway, forebay walls, and at the upstream end of the tailrace. Finally, the applicant proposes to modify releases into the tailrace in order to provide improved whitewater recreational opportunities.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also 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. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3372 or e-mail FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* All filings must (1) Bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS", or "TERMS AND CONDITIONS"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone

number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. As provided for in 18 CFR 4.34(b)(5)(i), a license applicant must file, no later than 60 days following the date of issuance of this notice of acceptance and ready for environmental analysis: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

q. e-Filing: Comments, motions to intervene, protests, or terms and conditions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at <http://www.ferc.gov> under the "eFiling" link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-11114 Filed 5-12-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13414-000]

City of Burlington, IA; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

May 4, 2009.

On March 31, 2009, the City of Burlington, Iowa filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the City of Burlington Hydroelectric Project, to be located on the Mississippi River, in Des Moines County, Iowa and Henderson County, Illinois.

The proposed City of Burlington Hydroelectric Project would be located at the existing U.S. Army Corps of Engineers' Lock and Dam No. 18 near Gladstone, Illinois and Burlington, Iowa. Lock and Dam No. 18's impoundment equals about 12,152 surface acres.

The proposed project would consist of: (1) Thirty submersible 500-kilowatt turbine/generators with total installed hydraulic capacity of 36,000 cubic feet per second and total installed generating capacity of 15 megawatts; (2) a new 1-mile-long transmission line; (3) appurtenant facilities. The City of Burlington Project would have an estimated average annual generation of 76,831 megawatts-hours, which would be sold to Alliant Energy, Inc.

Applicant Contact: Mr. Doug Worden, City Manager, City of Burlington, Iowa, 400 Washington Street, Burlington, Iowa 52601, (319) 753-8120.

FERC Contact: John Ramer, (202) 502-8969.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at

<http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at

<http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13414) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-11117 Filed 5-12-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232-564]

Duke Energy Carolinas, LLC of Gaston County, NC; Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

May 6, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Public Lands and Waters.

b. *Project No.:* 2232-564.

c. *Date Filed:* April 1, 2009.

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name of Project:* Catawba-Wateree Project.

f. *Location:* Lake Wylie, Gaston County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Mr. Kelvin K. Reagan, Duke Energy Carolinas, Senior Lake Services Representative, P.O. Box 1006, Charlotte, NC 28201-1006, (704) 382-9386.

i. *FERC Contact:* Jaime Blakesley, Telephone 312-596-4441, and e-mail: jaime.blakesley@ferc.gov.

j. *Deadline for filing comments, motions to intervene, and protest:* June 8, 2009. All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission

relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* The licensee requests Commission approval to lease to Riverside Marina, Inc. (Riverside), 2.0738 acres of project land at the Catawba-Wateree Project, for a commercial marina on Lake Wylie. The commercial marina will consist of the following facilities: Two lease areas containing four cluster docks with forty-two covered boat slips; one courtesy dock; two access ramps; one dry-dock storage building of 160,000 sq ft; and one pier used for gas dock and pump-out services. Riverside will also provide a 3,000 sq ft convenience store with forty-three parking spaces, and an existing picnic shelter. Riverside plans to stabilize 500 ft of shoreline and dredge approximately 1,600 cubic yards of lakebed material around proposed slip area. Additionally, the licensee is requesting that 1,719 linear feet of adjoining shoreline, as identified in the project's approved shoreline management plan, be re-classified from business/industrial to future commercial to support the marina. The licensee consulted with the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and all pertinent state and local agencies.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also 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. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or e-mail FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit

comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov> under the "e-Filing" link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9-11113 Filed 5-12-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09-1061-000]

Woodland Biomass Power, Ltd.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

May 6, 2009.

This is a supplemental notice in the above-referenced proceeding of Woodland Biomass Power, Ltd.'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 May 26, 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. E9-11111 Filed 5-12-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09-175-000]

CenterPoint Energy Gas Transmission Company; Notice of Request Under Blanket Authorization

May 5, 2009.

Take notice that on April 24, 2009, CenterPoint Energy Gas Transmission Company (CEGT), P.O. Box 21734, Shreveport, Louisiana 71151, filed a prior notice request pursuant to parts 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act (NGA) and CEGT's blanket certificate issued in Docket Nos. CP82-384-000 and CP82-384-001, for authorization to construct, own, maintain, and operate a compressor unit and appurtenant facilities at the Searcy Compressor Station located in White County, Arkansas (Searcy Phase II), all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

CEGT states that producers in the Fayetteville Shale Basin have requested firm transportation from existing and future receipt points on CEGT's system in northern Arkansas. CEGT asserts that, in order to satisfy this growing demand, CEGT proposes to construct, own, maintain, and operate an additional 2,370 horsepower (HP) unit and associated ancillary equipment. CEGT states that Searcy Phase II will increase the design capacity of the existing interconnection with Texas Gas Transmission, LLC (Texas Gas) from 125,000 dekatherms (Dth) per day to 250,000 Dth per day. CEGT asserts that the estimated cost for the proposed facilities is \$9.9 million.

Any questions regarding the application should be directed to Larry Thomas, Director, Rates & Regulatory, CenterPoint Energy Gas Transmission Company, P.O. Box 21734, Shreveport, Louisiana 71151, at (318) 429-2804.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person

filing to intervene or the Commission's staff may, pursuant to part 157.205 of the Commission's regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-11118 Filed 5-12-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

May 5, 2009.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC09-76-000.

Applicants: Trans Bay Cable LLC.

Description: Application for Authorization to Dispose of Jurisdictional Facilities and for Expedited Treatment of Trans Bay Cable LLC.

Filed Date: 04/29/2009.

Accession Number: 20090429-5021.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: EC09-77-000.

Applicants: Entergy Arkansas Inc., Entergy Gulf States, Inc.

Description: Entergy Arkansas, Inc. et al. submits their Application for Order Authorizing Disposition and Acquisition of Jurisdictional Assets under Section 203 of the Federal Power Act.

Filed Date: 04/30/2009.

Accession Number: 20090505-0016.

Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER09-683-002.

Applicants: Alex Energy, LLC.

Description: Alex Energy LLC submits supplement to its application for a Finding of Category 1 Seller Status.

Filed Date: 04/30/2009.

Accession Number: 20090504-0187.

Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ER08-1051-003.

Applicants: NSTAR Electric Company.

Description: NSTAR Electric Company submits its Annual Informational Filing.

Filed Date: 04/27/2009.

Accession Number: 20090428-0018.

Comment Date: 5 p.m. Eastern Time on Monday, May 18, 2009.

Docket Numbers: ER09-701-001.

Applicants: PJM Interconnection LLC.

Description: PJM Response to FERC Deficiency Letter.

Filed Date: 04/28/2009.

Accession Number: 20090428-5214.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: ER09-883-001.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits amendatory filing updated agreement with revised Exhibit A to replace the agreement submitted on 3/23/09.

Filed Date: 04/29/2009.

Accession Number: 20090430-0320.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1052-000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Co's Twenty-Fifth Quarterly Filing of Facilities Agreements.

Filed Date: 04/29/2009.

Accession Number: 20090430-0243.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1053-000.

Applicants: PJM Interconnection LLC.

Description: PJM Interconnection, LLC submits an executed Interim Interconnection Service Agreement with ExelonGeneration Co, LLC etc.

Filed Date: 04/28/2009.

Accession Number: 20090430-0242.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: ER09-1054-000.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Company tenders for filing Engineering and Procurement Agreement dated 4/14/09 with Iberdrola Renewables, Inc.

Filed Date: 04/28/2009.

Accession Number: 20090430-0171.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: ER09-1055-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Original Service Agreement 1782 to its FERC Electric Tariff, Fifth Revised Volume 1.

Filed Date: 04/28/2009.

Accession Number: 20090430-0170.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: ER09-1061-000.

Applicants: Woodland Biomass Power Ltd.

Description: Application of Woodland Biomass Power LTD for Blanket Authorizations, including pursuant to 18 CFR Part 34 for all future issuances of securities and assumptions of liability, certain waivers, and order approving market-based rate tariff.

Filed Date: 04/30/2009.

Accession Number: 20090501-0157.

Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ER09-1062-000.

Applicants: Tampa Electric Company.

Description: Tampa Electric Company submits revised rate schedule sheets for inclusion in the rate schedules comprising Tampa Electric's bilateral interchange contracts with 16 other utilities.

Filed Date: 04/29/2009.

Accession Number: 20090430-0176.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1064-000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits amendments to the effective CAISO Tariff to implement a resource adequacy standard capacity product, *et al.*

Filed Date: 04/28/2009.

Accession Number: 20090430-0329.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: ER09-1065-000.

Applicants: PJM Interconnection LLC.

Description: PJM Interconnection, LLC submits an executed interconnection service agreement entered into PJM, *et al.*

Filed Date: 04/29/2009.

Accession Number: 20090430-0318.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1066-000.

Applicants: California Power Exchange Corporation.

Description: The California Power Exchange Corporation submits for filing Original Sheet 10 *et al.* to its FERC Rate Schedule 1.

Filed Date: 04/29/2009.

Accession Number: 20090430-0322.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1067-000.

Applicants: Entergy Services, Inc.

Description: Entergy Texas, Inc. submits Rate Schedule 198 providing for cost-based power sales for full requirements service to Brazos Electric Power Coop, Inc.

Filed Date: 04/29/2009.

Accession Number: 20090430-0324.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1068-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Meter Agent Services Agreement between Dogwood Energy, LLC as the Market Participant and KCP&L Greater Missouri Operations Company as the Meter Agent.

Filed Date: 04/29/2009.

Accession Number: 20090430-0319.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1069-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Service Agreement for Network Integration Transmission Service between SPP and OPD, *et al.*

Filed Date: 04/30/2009.

Accession Number: 20090501-0141.

Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ER09-1070-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Service Agreement for Network Integration Transmission Service between SPP as Transmission Provider and NNPPD as Network Customer, *et al.*

Filed Date: 04/30/2009.

Accession Number: 20090501-0140.

Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ER09-1071-000.

Applicants: Xcel Energy Services Inc.

Description: Southwestern Public Service Company submits Service Agreement No. 614-SPS *et al.*

Filed Date: 04/30/2009.

Accession Number: 20090501-0139.

Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ER09-1072-000.

Applicants: El Paso Electric Company.

Description: El Paso Electric Company submits Interconnection Agreement between El Paso Electric Company and Tri State Generation and Transmission Association, Inc., *et al.*

Filed Date: 04/30/2009.

Accession Number: 20090501–0138.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ER09–1073–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. submits Service Agreement No. 1.
Filed Date: 04/30/2009.

Accession Number: 20090501–0136.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ER09–1074–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc., *et al.* submits Capacity Portability Service Agreement between Buckeye Power, Incorporated, etc.

Filed Date: 04/30/2009.
Accession Number: 20090501–0137.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ER09–1076–000.
Applicants: Florida Power & Light Company.

Description: Florida Power & Light Company submits for filing Original Sheet 1, *et al.* FERC Rate Schedule 318.
Filed Date: 04/30/2009.

Accession Number: 20090501–0142.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES09–29–000.
Applicants: Entergy Louisiana, LLC.
Description: Application of Entergy Louisiana, LLC, for Authorization under Federal Power Act Section 204.

Filed Date: 04/29/2009.
Accession Number: 20090429–5199.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ES09–30–000.
Applicants: Entergy Gulf States Louisiana, LLC.
Description: Application of Entergy Gulf States Louisiana, LLC., for Authorization under Federal Power Act Section 204.

Filed Date: 04/29/2009.
Accession Number: 20090429–5201.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–50–003.
Applicants: Duke Energy Carolinas, LLC.
Description: Duke Energy Carolinas, LLC submits First Revised Sheet No. 32, *et al.* to FERC Electric Tariff, Sixth Revised Volume No. 4.
Filed Date: 04/29/2009.

Accession Number: 20090430–0172.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
 [FR Doc. E9–11070 Filed 5–12–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 5, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER08–1051–003.
Applicants: NSTAR Electric Company.

Description: NSTAR Electric Company submits its Annual Informational Filing under ER08–1051.
Filed Date: 04/27/2009.

Accession Number: 20090428–0018.
Comment Date: 5 p.m. Eastern Time on Monday, May 18, 2009.

Docket Numbers: ER08–1457–000.
Applicants: PPL Electric Utilities Corporation.

Description: Unopposed Motion for Interim Rates and Request for Expedited Action of PPL Electric Utilities Corporation.

Filed Date: 05/01/2009.
Accession Number: 20090501–5263.
Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09–412–003.
Applicants: PJM Interconnection LLC.
Description: PJM Interconnection, LLC submits revisions to their Open Access Transmission Tariff and Reliability Assurance Agreement among Load Serving Entities in the PJM Region etc. pursuant to FERC's 3/26/09 order.

Filed Date: 04/27/2009.
Accession Number: 20090430–0240.
Comment Date: 5 p.m. Eastern Time on Monday, May 18, 2009.

Docket Numbers: ER09–889–001.
Applicants: City of Dover, Delaware.
Description: City of Dover, Delaware submits Exhibit A–REC: Revised Dover Rate Schedule *et al.*

Filed Date: 05/01/2009.
Accession Number: 20090504–0189.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 12, 2009.

Docket Numbers: ER09–1002–000.
Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc. submits an amendment to its 4/15/09 filing that commenced the proceeding, by requesting a waiver, to the extent necessary, from the application of the existing provisions etc.

Filed Date: 05/01/2009.
Accession Number: 20090504–0040.
Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09–1053–000.

Applicants: PJM Interconnection LLC.
Description: PJM Interconnection, LLC submits an executed Interim Interconnection Service Agreement with Exelon Generation Co, LLC etc.

Filed Date: 04/28/2009.

Accession Number: 20090430-0242.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: ER09-1054-000.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Company tenders for filing Engineering and Procurement Agreement dated 4/14/09 with Iberdrola Renewables, Inc.

Filed Date: 04/28/2009.

Accession Number: 20090430-0171.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: ER09-1055-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Original Service Agreement 1782 to its FERC Electric Tariff, Fifth Revised Volume.

Filed Date: 04/28/2009.

Accession Number: 20090430-0170.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: ER09-1056-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Original Service Agreement 1784 to its FERC Electric Tariff, Fifth Revised Volume 1.

Filed Date: 04/28/2009.

Accession Number: 20090430-0169.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 19, 2009.

Docket Numbers: ER09-1057-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits executed Large Generator Interconnection Agreement between SPP as Transmission Provider, WFEC as Interconnection Owner, and Blue Canyon Windpower V LLC as Interconnection Customer.

Filed Date: 04/27/2009.

Accession Number: 20090430-0177.

Comment Date: 5 p.m. Eastern Time on Monday, May 18, 2009.

Docket Numbers: ER09-1058-000.

Applicants: Tampa Electric Company.

Description: Tampa Electric Company submits Eighth Revised Sheet No 70 *et al.* to First Revised Rate Schedule FERC No 62.

Filed Date: 04/29/2009.

Accession Number: 20090430-0175.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1059-000.

Applicants: Tampa Electric Company.
Description: Tampa Electric Company submits Eighth Revised Sheet No. 118 to Second Revised Rate Schedule FERC No. 49.

Filed Date: 04/29/2009.

Accession Number: 20090430-0174.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1060-000.

Applicants: Wisconsin Electric Power Company.

Description: Wisconsin Electric Power Company submits executed Wholesale Distribution Service Agreement between Wisconsin Electric and WPPI Energy.

Filed Date: 04/29/2009.

Accession Number: 20090430-0168.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1079-000.

Applicants: Michigan Electric Transmission Company, LLC.

Description: Michigan Electric Transmission Company, LLC submits for acceptance First Revised Service Agreement 1926 *et al.* to its FERC Electric Tariff, Fourth Revised Volume 1.

Filed Date: 05/01/2009.

Accession Number: 20090504-0193.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1080-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits an executed Meter Agent Services Agreement between Lincoln Electric System as both Market Participant and the Meter Agent.

Filed Date: 05/01/2009.

Accession Number: 20090504-0176.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1081-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits an executed Second Amended Agreement for Interchange of Power and Interconnected Operation between Associated Electric Cooperative, Inc. etc.

Filed Date: 05/01/2009.

Accession Number: 20090504-0175.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1082-000.

Applicants: Entergy Services, Inc.

Description: Entergy Operating Companies submits an amendment to the Entergy System Agreement.

Filed Date: 05/01/2009.

Accession Number: 20090504-0177.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1083-000.

Applicants: New England Power Pool.
Description: New England Power Pool Participants Committee submits counterpart signature pages of the NEPOOL Agreement, dated as of 9/1/71 as amended executed by EMI Power Systems, LLC *et al.*

Filed Date: 05/01/2009.

Accession Number: 20090504-0178.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1084-000.

Applicants: Hermiston Power, LLC.

Description: Hermiston Power, LLC submits Notice of Succession notifying the Commission that it has succeeded, by reason of a change in name, to Hermiston Power Partnership's FERC Electric Tariff, First Revised Volume 1.

Filed Date: 05/01/2009.

Accession Number: 20090504-0179.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1085-000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: Consolidated Edison Company of New York, Inc. submits amendments to their Delivery Service Rate Schedule 96, and amendments to Economic Development Delivery Service Rate Schedule, FERC Rate Schedule 92.

Filed Date: 05/01/2009.

Accession Number: 20090504-0191.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1086-000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits an executed Service Agreement for Network Integration Transmission Service between SPP as Transmission Provider and Lincoln Electric System as Network Customer etc.

Filed Date: 05/01/2009.

Accession Number: 20090504-0180.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1087-000.

Applicants: Ameren Services Company.

Description: Central Illinois Public Service Company submits an executed service agreement for Wholesale Distribution Service with Prairie Power, Inc.

Filed Date: 05/01/2009.

Accession Number: 20090504-0181.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1088-000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits three notices

terminating Generator Special Facilities Agreement and Generator Interconnection Agreement between PG&E and Ameresco Half Moon Bay, LLC etc.

Filed Date: 05/01/2009.

Accession Number: 20090504-0182.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1089-000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits letter agreement between SCE and Stirling Energy System, Inc.

Filed Date: 05/01/2009.

Accession Number: 20090504-0183.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09-1090-000.

Applicants: Twin Cities Energy, LLC.

Description: Twin Cities Energy, LLC submits request to amend market based rate tariff.

Filed Date: 04/29/2009.

Accession Number: 20090504-0184.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Docket Numbers: ER09-1091-000.

Applicants: Twin Cities Power, LLC.

Description: Twin Cities Energy, LLC submits request to amend market based rate tariff and for Category 1 Seller Determination.

Filed Date: 04/29/2009.

Accession Number: 20090504-0185.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 20, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access

who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail FERCOnlineSupport@ferc.gov or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9-11071 Filed 5-12-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC09-3-001]

North American Electric Reliability Corporation; Northeast Power Coordinating Council, Inc.; Notice of Filing

May 6, 2009.

Take notice that on April 21, 2009, the North American Electric Reliability Corporation and the Northeast Power Coordinating Council, Inc. (NPCC) submitted a supplemental compliance filing regarding the comprehensive list of Bulk Electric System facilities with the United States portion of the NPCC Region and responses to the set of questions and data requests, pursuant to the Commission's December 18 Order, *North American Electric Reliability Corporation and Northeast Power Coordinating Council, Inc.*, 125 FERC ¶ 61,295 (2008).

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. Such notices, motions, or protests must be filed on or before the comment date. It is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 May 27, 2009.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-11115 Filed 5-12-09; 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

May 6, 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 call toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. CP04-36-005	4-27-09	Jane Sherman, Guy Lefebvre.
Exempt:		
1. CP04-36-005	4-29-09	Hon. Edward J. Markey, Hon. Barney Frank, Hon. James P. McGovern.
2. CP08-6-002, CP09-56-000	4-28-09	Micki Yoder. ¹
3. P-1971-079	4-20-09	John Palmer.
4. P-2100-000	4-21-09	Hon. Tom McClintock.
5. P-2197-073	5-1-09	Hon. Larry Kissell.
6. P-2407-000	4-21-09	Hon. Jeff Sessions.
7. P-12569-001	4-20-09	Frank Winchell. ²

¹ Two submittals in referenced docket.

² Record of telephone consultation.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-11110 Filed 5-12-09; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06-615-000; ER07-1257-000; ER08-1113-000]

California Independent System Operator Corporation; Notice of FERC Staff Attendance

May 6, 2009.

The Federal Energy Regulatory Commission (Commission) hereby gives notice that on May 8, 2009, members of its staff will attend a California Independent System Operator (CAISO) stakeholder conference call on Integrated Balancing Authority Area tariff language. The agenda and other documents for the teleconference are available on the CAISO's Web site, <http://www.caiso.com>.

Sponsored by the CAISO, the teleconference is open to all market participants, and Commission staff's attendance is part of the Commission's ongoing outreach efforts. The

teleconference may discuss matters at issue in the above captioned dockets.

For further information, contact Saeed Farrokhpay at saeed.farrokhpay@ferc.gov; (916) 294-0322 or Maury Kruth at maury.kruth@ferc.gov, (916) 294-0275.

Kimberly D. Bose,
Secretary.

[FR Doc. E9-11116 Filed 5-12-09; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-ORD-2009-0225; FRL-8904-3]

Board of Scientific Counselors (BOSC), 2009 Clean Air Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of a meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) Clean Air Subcommittee.

DATES: The meeting (a teleconference call) will be held on Friday, May 29th, 2009 from 12 p.m. to 2 p.m. EST. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to one business day before the meeting.

ADDRESSES: Participation in the conference call will be by teleconference only—meeting rooms will not be used. Members of the public may obtain the call-in number and access code for the call from Heather Drumm, whose contact information is listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. Submit your comments, identified by Docket ID No. EPA-HQ-ORD-2009-0225, by one of the following methods:

- **www.regulations.gov:** Follow the on-line instructions for submitting comments.
- **E-mail:** Send comments by electronic mail (e-mail) to: ORD.Docket@epa.gov, Attention Docket ID No. EPA-HQ-ORD-2009-0225.
- **Fax:** Fax comments to: (202) 566-0224, Attention Docket ID No. EPA-HQ-ORD-2009-0225.
- **Mail:** Send comments by mail to: Board of Scientific Counselors (BOSC),

2009 Clean Air Subcommittee Meetings Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-ORD-2009-0225.

• *Hand Delivery or Courier:* Deliver comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA-HQ-ORD-2009-0225.

Note: this is not a mailing address. Such deliveries are only accepted during the docket'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-HQ-ORD-2009-0225. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail. The 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 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 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 www.regulations.gov or in hard copy at the Board of Scientific Counselors (BOSC), 2009 Clean Air Subcommittee Meetings Docket, EPA/DC, EPA West, Room B102, 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 ORD Docket is (202) 566-1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Heather Drumm, Mail Code 8104-R, Office of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564-8239; via fax at: (202) 565-2911; or via e-mail at: drumm.heather@epa.gov.

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at this meeting may contact Heather Drumm, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

Proposed agenda items for the teleconference include, but are not limited to: Overviews of each of the Long Term Goals for the Clean Air Research Program. The meetings are open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Heather Drumm at (202) 564-8239 or drumm.heather@epa.gov. To request accommodation of a disability, please contact Heather Drumm, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: May 5, 2009.

Fred Hauchman,

Director, Office of Science Policy.

[FR Doc. E9-11221 Filed 5-12-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8904-2]

Meeting of the National Drinking Water Advisory Council—Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Under Section 10(a)(2) of Public Law 92-423, "The Federal Advisory Committee Act," notice is hereby given of a meeting of the National Drinking Water Advisory Council (NDWAC), established under the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*). The Council will consider various issues associated with drinking water protection and small public water systems. The Council will also receive updates about several on-going activities including rulemakings related to the Total Coliform Rule, Geologic Sequestration, and the Aircraft Drinking Water Rule and efforts underway to help the water sector improve their resiliency to potential effects of climate change.

DATES: The Council meeting will be held on May 27 and 28, 2009, from 8 a.m. to 5 p.m., each day.

ADDRESSES: The meeting will be held in Seattle, WA. Information about the location will be made available in the near future on EPA's Web site at <http://www.epa.gov/safewater/ndwac/>.

FOR FURTHER INFORMATION CONTACT: Members of the public who would like to attend the meeting, present an oral statement, or submit a written statement, should contact Veronica Blette, by e-mail at: bllette.veronica@epa.gov, by phone, 202-564-4094, or by regular mail at the U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (MC 4601M), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The Council encourages the public's input and will allocate one hour (2:30 p.m.–3:30 p.m.) on May 28, 2009, for this purpose. Oral statements will be limited to five minutes. It is preferred that only one person present the statement on behalf of a group or organization. To ensure adequate time for public involvement, individuals or organizations interested in presenting an oral statement should notify Veronica Blette by telephone at 202-564-4094 no later than May 22, 2009. Any person who wishes to file a written statement can do so before or after a

Council meeting. Written statements received by May 22, 2009, will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received May 22, 2009, or after the meeting, will become part of the permanent meeting file and will be forwarded to the Council members for their information. Additional information about the Council is available at <http://www.epa.gov/safewater/ndwac>.

Special Accommodations

For information on access or services for individuals with disabilities, please contact Veronica Blette at 202-564-4094 or by e-mail at blette.veronica@epa.gov. To request accommodation of a disability, please contact Veronica Blette, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: May 6, 2009.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. E9-11210 Filed 5-12-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0897; FRL-8397-6]

Pesticide Reregistration Performance Measures and Goals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's progress in meeting its performance measures and goals for pesticide reregistration during fiscal year 2008. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires EPA to publish information about EPA's annual achievements in this area. This notice discusses the integration of tolerance reassessment with the reregistration process, and describes the status of various regulatory activities associated with reregistration and tolerance reassessment. The notice gives total numbers of chemicals and products reregistered, Data Call-Ins issued, and products registered under the "fast-track" provisions of FIFRA.

DATES: This notice is not subject to a formal comment period. Nevertheless, EPA welcomes input from stakeholders and the general public. Written comments, identified by the docket identification (ID) number EPA-HQ-

OPP-2008-0897, should be received on or before July 13, 2009.

ADDRESSES: Submit your comments, identified by docket ID number EPA-HQ-OPP-2008-0897, by one of the following methods:

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

- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2008-0897. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be captured automatically 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/docket.htm/>.

Docket: All documents in the docket are listed in the index. Although listed in the index, some information is not publicly available, i.e., 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 in the electronic docket at <http://www.regulations.gov/>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Carol P. Stangel, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (703) 308-8007; e-mail: stangel.carol@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who are interested in the progress and status of EPA's pesticide reregistration and tolerance reassessment programs, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. **Submitting CBI.** Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked

will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns, and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity, obscene language, or personal threats.
- viii. Make sure to submit your comments by the comment period deadline.

II. Background

EPA must establish and publish in the **Federal Register** its annual performance measures and goals for pesticide reregistration, tolerance reassessment, and expedited registration, under section 4(l) of FIFRA, 7 U.S.C. 136a-1(l). Specifically, such measures and goals are to include:

- The status of reregistration.
 - The number of products reregistered, canceled, or amended.
 - The number and type of data requests or Data Call-In (DCI) notices under FIFRA section 3(c)(2)(B) issued to support product reregistration by active ingredient.
 - Progress in reducing the number of unreviewed, required reregistration studies.
 - The aggregate status of tolerances reassessed.
 - The number of applications for registration submitted under subsection (4)(k)(3) (which provides for expedited processing and review of certain applications), that were approved or disapproved.
 - The future schedule for reregistrations in the current and succeeding fiscal year.
 - The projected year of completion of the reregistrations under section 4.
- FIFRA authorized EPA to conduct a comprehensive pesticide reregistration

program—a complete review of the human health and environmental effects of older pesticides originally registered before November 1, 1984. Pesticides meeting today's scientific and regulatory standards could be declared "eligible" for reregistration. To be eligible, an older pesticide must have a substantially complete data base, and must not cause unreasonable adverse effects to human health or the environment when used according to Agency approved label directions and precautions.

In addition, all pesticides with food uses must meet the safety standard of section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA) 21 U.S.C. 346a. Under FFDCA, EPA must make a determination that pesticide residues remaining in or on food are "safe"; that is, "that there is reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue" from dietary and other sources. In determining allowable levels of pesticide residues in food, EPA must, among other requirements, perform a comprehensive assessment of each pesticide's risks, considering:

- Aggregate exposure (from food, drinking water, and residential uses).
- Cumulative effects from all pesticides sharing a common mechanism of toxicity.
- Possible increased susceptibility of infants and children.
- Possible endocrine or estrogenic effects.

The 1996 FFDCA amendments also required the reassessment of all existing tolerances (pesticide residue limits in food) and tolerance exemptions within 10 years, to ensure that they met the safety standard of the law. EPA was directed to give priority to the review of those pesticides that appeared to pose the greatest risk to public health. The Agency completed the last of 9,721 required tolerance reassessment decisions in September 2007, ensuring that all pesticides used on food in the United States meet the law's safety standard. EPA's approach to tolerance reassessment under FFDCA was described fully in the Agency's document, "Raw and Processed Food Schedule for Pesticide Tolerance Reassessment" (62 FR 42020, August 4, 1997) (FRL-5734-6).

The Pesticide Registration Improvement Act (PRIA) of 2003 became effective on March 23, 2004 (7 U.S.C. 136w-8). Among other things, PRIA directed EPA to complete Reregistration Eligibility Decisions (REDs) for pesticides with food uses/tolerances by August 3, 2006, and to complete all non-food use pesticide

REDs by October 3, 2008. The Agency completed decisions for the last of 613 reregistration pesticide cases in September 2008, meeting the PRIA deadline. REDs are available on the Agency's Pesticide Reregistration Status Web page, <http://www.epa.gov/pesticides/reregistration/status.htm>.

III. Program Accountability

Through this summary of performance measures and goals for pesticide reregistration, tolerance reassessment, and expedited registration, EPA describes progress made during the past year in each of the program areas included in FIFRA section 4(l).

A. Status of Reregistration

During fiscal year (FY) 2008 (from October 1, 2007, through September 30, 2008), EPA completed risk assessments and risk management decisions for the last 27 of 613 pesticide cases that were subject to reregistration. The Agency's decisions are embodied in RED documents (see Table 1).

TABLE 1—REREGISTRATION/RISK MANAGEMENT DECISIONS COMPLETED: IN FY 2008 AND FY 1991 THROUGH FY 2008

FY 2008 Decisions	Total, FY 1991 through FY 2008
27 FY 2008 REDs: Acrolein Busan 77 Chloropicrin Chromated arsenicals (CCA) Creosote/Coal tar Dazomet Diiodomethyl p-tolyl sulfone (Amical 48) Ethylene oxide (ETO) Formaldehyde HHT (Grotan) Inorganic thiosulfates (ammonium thiosulfate) Methyl bromide (soil fumigant uses RED; commodity uses TRED & RED completed FY 2006) Methyl isothiocyanate (MITC) Methylidithiocarbamate salts (metam sodium/metam potassium) Naphthalene Nicotine (cancellation) Organic esters of phosphoric acid Pentachlorophenol d-Phenothrin (Sumithrin) Prometon Siduron Sodium fluoride Sulfometuron methyl TBT-containing compounds	384 REDS

TABLE 1—REREGISTRATION/RISK MANAGEMENT DECISIONS COMPLETED: IN FY 2008 AND FY 1991 THROUGH FY 2008—Continued

FY 2008 Decisions	Total, FY 1991 through FY 2008
Tetramethrin Triclosan (Irgasan) Triforine	

Through the reregistration program, EPA reviewed current scientific data for older pesticides (those initially registered before November 1984), reassessed their effects on human health and the environment, and required risk mitigation measures as necessary. Pesticides that had sufficient supporting data and whose risks could be successfully mitigated were declared “eligible” for reregistration.

1. *Overall RED progress.* In FY 2008, EPA completed the last of 613 required reregistration eligibility decisions (see Table 2).

TABLE 2—OVERALL RED PROGRESS, FY 1991 THROUGH FY 2008

REDs completed	384 (63%)
Cases canceled	229 (37%)
REDs to be completed	0 (0%)
Total reregistration cases	613 (100%)

2. *Risk reduction in REDs.* Through the reregistration program, EPA has reduced risks associated with the use of older pesticides. In developing REDs, EPA worked with stakeholders including pesticide registrants, growers and other pesticide users, and environmental and public health interests groups, as well as the States and Tribes, USDA and other Federal agencies, and other entities to develop measures to effectively reduce risks of concern. Almost every RED includes some measures or modifications in how a pesticide can be legally used to reduce risks. The options for such risk reduction were extensive and included voluntary cancellation of pesticide products or deletion of uses; declaring certain uses ineligible or not yet eligible (and then proceeding with follow-up action to cancel the uses or require additional supporting data); restricting use of products to certified applicators; limiting the amount or frequency of use; improving use directions and precautions; requiring more protective clothing and equipment; requiring special packaging or engineering

controls; requiring no-treatment buffer zones; employing ground water, surface water, or other environmental and ecological safeguards; and other measures.

B. Product Reregistration; Numbers of Products Reregistered, Canceled, and Amended

At the end of the reregistration process, after EPA has issued a RED and declared a pesticide reregistration case eligible for reregistration, individual end-use products that contain pesticide active ingredients included in the case still must be reregistered. This concluding part of the reregistration process is called “product reregistration.”

In issuing a completed RED document, EPA sends registrants a DCI notice requesting any product-specific data and specific revised labeling needed to complete reregistration for each of the individual pesticide products covered by the RED. Based on the results of EPA’s review of these data and labeling, products found to meet FIFRA and FFDCA standards may be reregistered.

A variety of outcomes are possible for pesticide products completing this final phase of the reregistration process. Ideally, in response to the DCI notice, the pesticide producer, or registrant, will submit the required product-specific data and revised labeling, which EPA will review and find acceptable. At that point, the Agency may reregister the pesticide product. If, however, the product contains multiple active ingredients, the Agency instead would first require the registrant to amend the product’s registration, incorporating the labeling changes specified in the RED as interim measures. A product with multiple active ingredients could not be fully reregistered until the last active ingredient in its formulation was eligible for reregistration. In other situations, the Agency may temporarily suspend a product’s registration if the registrant has not submitted required product-specific studies within the time frame specified. The Agency may cancel a product’s registration because the registrant did not pay the required registration maintenance fee. Alternatively, the registrant may request a voluntary cancellation of their end-use product registration.

1. *Product reregistration actions in FY 2007.* EPA counts each of the post-RED product outcomes described above as a product reregistration action. A single pesticide product may be the subject of several product reregistration actions within the same year. For example, a

product’s registration initially may be amended, then the product may be reregistered, or the product may first be suspended and later it may be voluntarily canceled. During FY 2007, EPA completed the product reregistration actions detailed in Table 3.

TABLE 3—PRODUCT REREGISTRATION ACTIONS COMPLETED IN FY 2007

Actions	FY 2007
Product reregistration actions	538
Product amendment actions	70
Product cancellation actions	370
Product suspension actions	0
Total actions	978

2. *Status of the product reregistration universe for FY 2007.* EPA also keeps track of the status of the universe of products subject to reregistration, that is, the overall number of products reregistered, amended, canceled, and sent for suspension, as well as the number of products with actions pending, as of the end of the fiscal year. This overall status information is not “cumulative”—it is not derived from summing up a series of annual actions. Adding annual actions would result in a larger overall number since each individual product is subject to multiple actions—it can be amended, reregistered, and/or canceled, over time. Instead, the “big picture” status information in Table 4 should be considered a snapshot in time. As registrants and EPA make marketing and regulatory decisions in the future, the status of individual products may change, and numbers in this table are expected to fluctuate.

TABLE 4—STATUS OF THE UNIVERSE OF PRODUCTS SUBJECT TO PRODUCT REREGISTRATION, FOR FY 2007 (AS OF SEPTEMBER 30, 2007)

Products reregistered	2,602
Products amended	631
Products canceled	5,046
Products sent for suspension	6
Total products with actions completed	8,285
Products with actions pending	13,066

TABLE 4—STATUS OF THE UNIVERSE OF PRODUCTS SUBJECT TO PRODUCT REREGISTRATION, FOR FY 2007 (AS OF SEPTEMBER 30, 2007)—Continued

Total products in product re-registration universe	21,351
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The universe of products in product reregistration at the end of FY 2007 represented an increase of 1,100 products from the FY 2006 universe of 20,251 products. The increase consists of 1,099 products associated with FY 2007 REDs, and one product that was added as a result of DCI activities and processing for previously issued REDs.

At the end of FY 2007, 13,066 products had product reregistration decisions pending. Some pending products awaited science reviews, label

reviews, or reregistration decisions by EPA. Others were not yet ready for product reregistration actions, but were associated with more recently completed REDs. Their product-specific data were not yet due to be submitted to or reviewed by the Agency.

3. *Product reregistration actions and universe in FY 2008.* In response to 2009 findings by EPA's Office of the Inspector General resulting from the annual FIFRA Financial Statements Audit, the EPA Office of Pesticide Programs (OPP) is reviewing product reregistration actions completed in FY 2008 and will make any needed corrections. OPP expects to complete this review by December 31, 2009. In next year's Performance Measures and Goals **Federal Register** notice reporting on actions completed in FY 2009, the Agency plans to provide numbers of

product reregistration actions completed in FY 2008 and in FY 2009.

4. *Product reregistration goal in FY 2009.* EPA's goal is to complete 1,275 product reregistration actions during FY 2009. Additional information is available on EPA's Product Reregistration Web page, <http://www.epa.gov/pesticides/reregistration/product-reregistration.htm>.

C. Number and Type of DCIs to Support Product Reregistration by Active Ingredient

The number and type of product-specific Data Call-In (PDCI) requests that EPA intends to issue under FIFRA section 3(c)(2)(B) to support product reregistration for pesticide active ingredients included in FY 2008 REDs are shown in Table 5.

TABLE 5—DCIs TO SUPPORT PRODUCT REREGISTRATION FOR FY 2008 REDS

Case Name	Case No.	Number of Products Covered by the RED ¹	Number of Product Chemistry Studies Required ²	Number of Acute Toxicology Studies Required ³	Number of Efficacy Studies Required
Acrolein	2005	8	31	6 (1 batch)	0
Busan 77	3034	149	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Chloropicrin	0040	74	31	Not Applicable ⁴	0
Chromated Arsenicals (CCA)	0132	21	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Creosote/Coal Tar	0139	14	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Dazomet	2135	22	31	42 (2 batches/5 products not batched)	0
Diiodomethyl-p-tolyl sulfone (Amical 48)	4009	9	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Ethylene Oxide	2275	26	31	Not Applicable ⁴	0
Formaldehyde	0556	9	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
HHT (Grotan)	3074	17	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Inorganic Thiosulfates (Ammonium Thiosulfate)	4057	1	31	6 (1 product not batched)	0
Methyl Bromide (soil fumigant uses)	0335	73	31	Not Applicable ⁴	2

TABLE 5—DCIS TO SUPPORT PRODUCT REREGISTRATION FOR FY 2008 REDS—Continued

Case Name	Case No.	Number of Products Covered by the RED ¹	Number of Product Chemistry Studies Required ²	Number of Acute Toxicology Studies Required ³	Number of Efficacy Studies Required
Methyl Isothiocyanate (MITC)	2405	2	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Methyldithiocarbamate Salts (Metam Sodium/Metam Potassium)	2390	55	31	66 (6 batches/5 products not batched)	0
Naphthalene	0022	9	31	12 (1 batch/1 product not batched)	0
Nicotine (Cancellation)	2460	1	Not Applicable	Not Applicable ⁵	Not Applicable
Organic Esters of Phosphoric Acid	4122	2	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Pentachlorophenol	2505	6	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
d-Phenothrin (Sumithrin)	0426	195	31	Acute toxicity batching has not been completed	PDCI has not been completed
Prometon	2545	52	31	90 (10 batches/5 products not batched)	0
Siduron	3130	19	31	54 (3 batches/6 products not batched)	0
Sodium Fluoride	3132	7	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Sulfometuron Methyl	3136	28	31	84 (7 batches/7 products not batched)	0
TBT-Containing Compounds	2620	29	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Tetramethrin	2660	292	31	276 (17 batches/29 products not batched) ⁶	6
Triclosan (Irgasan)	2340	20	31	Antimicrobial RED-- Acute toxicity batching has not been completed	PDCI has not been completed
Triforine	2720	3	31	Acute toxicity batching has not been completed	0
Total		1,143			

¹The number of registered products containing a pesticide active ingredient can change over time. The product total that appears in the RED document (counted when the RED is signed) may be different than the number of products that EPA is tracking for product reregistration (counted later, when the RED is issued). This table reflects the current number of products associated with each RED, as they are being tracked for product reregistration.

²This column shows the number of product chemistry studies that are required for each product covered by the RED.

³In an effort to reduce the time, resources, and number of animals needed to fulfill acute toxicity data requirements, EPA batches products that can be considered similar from an acute toxicity standpoint. For example, 1 batch could contain 5 products. In this instance, if 6 acute toxicology studies usually were required per product, only 6 studies (rather than 30 studies) would be required for the entire batch. Factors considered in the sorting process include each product's active and inert ingredients (e.g., identity, percent composition, and biological activity), type of formulation (e.g., emulsifiable concentrate, aerosol wettable powder, granular), and labeling (e.g., signal word, use classification, precautionary labeling). The Agency does not describe batched products as substantially similar, because all products within a batch may not be considered chemically similar or have identical use patterns. (Note: FIFRA section 24(c) or Special Local Need (SLN) registrations are not included in the acute toxicity batchings because they are supported by a valid parent product (section 3) registration.)

⁴Acute toxicity data are not required for the chloropicrin, ethylene oxide, and methyl bromide PDCIs; these chemicals are highly toxic and toxicity categories are already established for all products.

⁵The Nicotine RED is a cancellation; therefore, neither a PDCI nor acute toxicity data are required.

⁶A majority of the tetramethrin products also contain MGK-264, PBO, and pyrethrins as active ingredients. These products were included in the acute toxicity batching for the MGK-264, PBO, and Pyrethrins REDs, issued in FY 2006. The registrants of these products would either submit or cite acute toxicity data according to the acute toxicity batchings in those REDs. If the acute toxicity data are acceptable, the data will support the product for all of the active ingredients (MGK-264, PBO, pyrethrins and tetramethrin). Therefore, only 138 products that contain tetramethrin as an active ingredient are included in the acute toxicity batching for FY 2008.

D. Progress in Reducing the Number of Unreviewed, Required Reregistration Studies

EPA made progress during FY 2008 in reducing the number of studies still

categorized as "unreviewed" that were submitted by registrants in support of pesticides undergoing reregistration. During 2008, the Agency reduced by 5% the number of studies for List A pesticides categorized as unreviewed,

and reduced by almost 3% the number of such studies for all pesticides. The Agency is exploring options for further categorizing reregistration studies more precisely (see Table 6).

TABLE 6—REVIEW STATUS OF STUDIES SUBMITTED FOR PESTICIDE REREGISTRATION, END OF FY 2008

Pesticide Reregistration List, per FIFRA Section 4(c)(2)	Studies Reviewed (including cited ¹) + Extraneous ²	Studies Awaiting Review	Total Studies Received
List A	12,095 reviewed (includes 779 cited) + 663 extraneous = 12,758 (92%)	1,071 (8%)	13,829
List B	6,748 reviewed (includes 88 cited) + 1,081 extraneous = 7,829 (82%)	1,738 (18%)	9,567
List C	2,131 reviewed (includes 29 cited) + 351 extraneous = 2,482 (84%)	461 (16%)	2,943
List D	1,280 reviewed (includes 3 cited) + 136 extraneous = 1,416 (86%)	228 (14%)	1,644
Total Lists A - D	22,254 reviewed (includes 899 cited) + 2,231 extraneous = 24,485 (87.5%)	3,498 (12.5%)	27,983 (100%)

¹Cited studies is a term used to classify those studies that are referenced in REDs, RED bibliographies, or related science support documents.

²Extraneous studies is a term used to classify those studies that are not needed because the guideline or data requirement has been satisfied by other studies or has changed.

E. Applications for Registration Requiring Expedited Processing; Numbers Approved and Disapproved

By law, EPA must expedite its processing of certain types of applications for pesticide product registration, i.e., applications for end-use products that would be identical or substantially similar to a currently registered product (me too products); amendments to current product registrations that do not require review of scientific data; and products for public health pesticide uses. During FY 2008, EPA considered and approved the numbers of applications for registration requiring expedited processing (also known as "fast track" applications) shown in Table 7.

TABLE 7—FAST TRACK APPLICATIONS APPROVED IN FY 2008

Me-too product registrations/Fast track	411
Amendments/Fast track	2,557
Total applications processed by fast track means	2,968

For those applications not approved, the Agency generally notifies the registrant of any deficiencies in the application that need to be corrected or addressed before the application can be approved. Applications may have been withdrawn after discussions with the Agency, but none were formally "disapproved" during FY 2008.

On a financial accounting basis, EPA devoted 25.6 full-time equivalents (FTEs) in FY 2008 to reviewing and processing applications for fast track me-too product registrations and label amendments. The Agency spent approximately \$3.3 million in FY 2008 in direct costs (i.e., time on task, not including administrative expenses, computer systems, management overhead, and other indirect costs) on expedited processing and reviews.

F. Projected Year of Completion of Reregistrations

EPA completed the 27 remaining reregistration eligibility decisions in FY 2008. Product reregistration, which takes place only after the reregistration eligibility decisions have been

completed for the active ingredients, will not likely be completed before 2014.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 1, 2009.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E9-10758 Filed 5-12-09; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[Docket# EPA-R04-SFUND-2009-0300, FRL-8903-3]

Swift Thermometer Superfund Site, Dickson, Dickson County, TN; Notice of Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for reimbursement of past response costs concerning the Swift Thermometer Superfund Site located in Dickson, Dickson County, Tennessee for publication.

DATES: The Agency will consider public comments on the settlement until June 12, 2009. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Painter. Submit your comments, identified by Docket ID No. EPA-R04-SFUND 2009-0300 or Site name Swift Thermometer Superfund Site by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- <http://www.epa.gov/region4/waste/sf/enforce.htm>.

- E-mail: Painter.Paula@epa.gov.

FOR FURTHER INFORMATION CONTACT:

Paula V. Painter at 404/562-8887.

Dated: April 24, 2009.

Anita L. Davis,

Chief, Superfund Enforcement & Information Management Branch, Superfund Division.

[FR Doc. E9-11054 Filed 5-12-09; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Revision of a Currently Approved Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC hereby gives notice that it is seeking public comment on proposed revisions to its Acquisition Services Information Requirements information collection (OMB No. 3064-0072). At the end of the comment period, any comments and recommendations received will be analyzed to determine the extent to which the FDIC should modify the proposed revisions prior to submission to OMB for review and approval.

DATES: Comments must be submitted on or before July 13, 2009.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to the name of the collection. Comments may be

submitted by any of the following methods:

- <http://www.FDIC.gov/regulations/laws/federal/notices.html>.

- E-mail: comments@fdic.gov.

- Mail: Leneta G. Gregorie (202-898-3719), Counsel, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the FDIC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact Leneta G. Gregorie, by telephone at (202) 898-3719 or by mail at the address identified above. In addition, copies of the proposed new Forms 3700/4A, 3700/12, and 3700/44 can be obtained at the FDIC's Web site (<http://www.fdic.gov/regulations/laws/federal/>).

SUPPLEMENTARY INFORMATION: The FDIC is proposing to make minor revisions to simplify and clarify three of the forms used in support of contracting and leasing activities.

Title: Acquisition Services Information Requirements.

Forms Currently in Use:

FDIC Background Investigation Questionnaire for Contractor Personnel & Subcontractors, Form 1600/04.

FDIC Background Investigation Questionnaire for Contractors, Form 1600/07.

FDIC Past Performance Questionnaire, Form 3700/57.

FDIC Contractor Representation and Certifications, Form 3700/04A.

Integrity and Fitness Representations and Certifications, Form 3700/12.

Leasing Representations and Certifications Form 3700/44.

ESTIMATED NUMBER OF RESPONDENTS AND BURDEN HOURS

FDIC document	Hours per unit	Number of respondents	Burden hours
Background Investigation Questionnaire Management (1600/04)	.33	4,000	1,320
Background Investigation Questionnaire Contractors (1600/07)	.50	200	100
Contractor Representation and Certifications (3700/04A)	.50	360	180
Integrity and Fitness Representations and Certifications (3700/12)	.33	360	119
Leasing Representations and Certifications (3700/44)	1.0	35	35
FDIC Past Performance Questionnaire	.75	1,080	810
Total		6,035	2,564

General Description of Collection: The collection involves the submission of information on various forms by contractors who wish to do business, have done business, or are currently under contract with the FDIC. The information is used to: ensure compliance with established contractor ethics regulations (12 CFR Part 366); obtain information on a contractor's past performance for proposal evaluation purposes; review a potential lessor's fitness and integrity prior to entering into a lease transaction; and perform background investigations on contractors and contractor personnel.

Current Action: The FDIC is proposing to modify three of the forms in the Acquisition Services Information Requirements collection: Contractor Representations and Certifications, Form 3700/4A; Integrity and Fitness Representations, Form 3700/12; and Leasing Representations and Certifications, Form 3700/44. Specifically, in Form 3700/4A, Contractor Representations and Certifications, the FDIC is proposing elimination of the "Duplication of Cost" representation as unnecessary; removal of the "Clean Air and Water Certification" based on its removal from the Federal Acquisition Regulation (FAR) in response to a recommendation by the Environmental Protection Agency; modification of the "Small Disadvantaged Business (SDB) Concern Certification" to reflect the Small Business Administration's recent announcement that it will discontinue SDB certifications; modification of the "Equal Opportunity Certification" and the "Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions" to mirror related FAR provisions; and substitution of an offeror's Data Universal Numbering System (DUNS) number for the previously requested Tax Identification Number (TIN) in the "Signature" section of the form. In Form 3700/12, Integrity and Fitness Representations, the FDIC proposes to insert a sentence in the preamble referencing FDIC regulations on *Minimum Standards of Integrity and Fitness For An FDIC Contractor* at 12 CFR Part 366; add a "Retention of Information" paragraph in Section III, instructing contractors on the retention period for records; and substitute a contractor's DUNS number for the previously requested TIN in the "Signature" section of the form. Finally, in Form 3700/44, Leasing Representations and Certifications, the

FDIC proposes to clarify and highlight the various certifications currently covered under the general heading "Environmental Condition" by reclassifying them as certifications related to "Asbestos-Containing Materials," "Water Quality," "Indoor Air Quality," and "Hazardous Substances."

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the 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. All comments will become a matter of public record.

Dated at Washington, DC, this 7th day of May, 2009.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E9-11085 Filed 5-12-09; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Revision of a Currently Approved Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC hereby gives notice that it is seeking public comment on proposed revisions to its Acquisition Services Information Requirements information collection (OMB No. 3064-0072). At the end of the comment period, any comments and recommendations received will be

analyzed to determine the extent to which the FDIC should modify the proposed revisions prior to submission to OMB for review and approval.

DATES: Comments must be submitted on or before July 13, 2009.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to the name of the collection. Comments may be submitted by any of the following methods:

- <http://www.FDIC.gov/regulations/laws/federal/notices.html>.

- *E-mail:* comments@fdic.gov.

- *Mail:* Leneta G. Gregorie (202.898.3719), Counsel, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comments may also be submitted to the FDIC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact Leneta G. Gregorie, by telephone at (202) 898-3719 or by mail at the address identified above. In addition, copies of the proposed new Forms 3700/4A, 3700/12, and 3700/44 can be obtained at the FDIC's Web site (<http://www.fdic.gov/regulations/laws/federal/>).

SUPPLEMENTARY INFORMATION: The FDIC is proposing to make minor revisions to simplify and clarify three of the forms used in support of contracting and leasing activities

Title: Acquisition Services Information Requirements.

Forms Currently In Use

FDIC Background Investigation Questionnaire for Contractor Personnel & Subcontractors, Form 1600/04.

FDIC Background Investigation Questionnaire for Contractors, Form 1600/07.

FDIC Past Performance Questionnaire, Form 3700/57.

FDIC Contractor Representation and Certifications, Form 3700/04A.

Integrity and Fitness Representations and Certifications, Form 3700/12.

Leasing Representations and Certifications Form 3700/44.

ESTIMATED NUMBER OF RESPONDENTS AND BURDEN HOURS

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Current Action: The FDIC is proposing to modify three of the forms in the Acquisition Services Information Requirements collection: Contractor Representations and Certifications, Form 3700/4A; Integrity and Fitness Representations, Form 3700/12; and Leasing Representations and Certifications, Form 3700/44. Specifically, in Form 3700/4A, Contractor Representations and Certifications, the FDIC is proposing elimination of the "Duplication of Cost" representation as unnecessary; removal of the "Clean Air and Water Certification" based on its removal from the Federal Acquisition Regulation (FAR) in response to a recommendation by the Environmental Protection Agency; modification of the "Small Disadvantaged Business (SDB) Concern Certification" to reflect the Small Business Administration's recent announcement that it will discontinue SDB certifications; modification of the "Equal Opportunity Certification" and the "Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions" to mirror related FAR provisions; and substitution of an offeror's Data Universal Numbering System (DUNS) number for the previously requested Tax Identification Number (TIN) in the "Signature" section of the form. In Form 3700/12, Integrity and Fitness Representations, the FDIC proposes to insert a sentence in the preamble

referencing FDIC regulations on *Minimum Standards of Integrity and Fitness For an FDIC Contractor* at 12 CFR Part 366; add a "Retention of Information" paragraph in Section III, instructing contractors on the retention period for records; and substitute a contractor's DUNS number for the previously requested TIN in the "Signature" section of the form. Finally, in Form 3700/44, Leasing Representations and Certifications, the FDIC proposes to clarify and highlight the various certifications currently covered under the general heading "Environmental Condition" by reclassifying them as certifications related to "Asbestos-Containing Materials," "Water Quality," "Indoor Air Quality," and "Hazardous Substances."

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the 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. All comments will become a matter of public record.

Dated at Washington, DC, this 7th day of May, 2009.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E9-11088 Filed 5-12-09; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL ELECTION COMMISSION**Notice of Sunshine Act Meeting**

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, May 12, 2009, at 10 a.m.

Wednesday, May 13, 2009, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: These meetings will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, section 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

PERSON TO CONTACT FOR INFORMATION:

Judith Ingram, Press Officer. Telephone: (202) 694-1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. E9-10952 Filed 5-12-09; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM**A De Novo Corporation to do Business Under Section 25A of the Federal Reserve Act**

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25A of the Federal Reserve Act ("Edge Corporation") 12 U.S.C. Sec. 611 *et seq.* The factors that are to be considered in acting on the application are set forth in the Board's Regulation K (12 CFR 211.5).

The application listed below is available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for

inspection at the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 28, 2009.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Bank Applications Officer) 33 Liberty Street, New York, New York 10045-0001:

1. *The Governor and Company of the Bank of Ireland*, Dublin, Ireland; to establish a *de novo* Edge Corporation, Bank of Ireland Foreign Exchange Corporation, Orlando, Florida, pursuant to Section 25A of the Federal Reserve Act and Section 211.5(b) of Regulation K.

Board of Governors of the Federal Reserve System, May 8, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-11136 Filed 5-12-09; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 28, 2009.

A. Federal Reserve Bank of Kansas City (Todd Offenbacher, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *William B. Vollbracht, individually, and as managing member of The GDO Partnership and Vollbracht Properties, LLC; and as controlling shareholder of Land Title Guarantee Company, and*

Land Title Insurance Corporation, all of Denver, Colorado; and as a member of a family group acting in concert consisting of Leslie D. Vollbracht, Carole E. Earle, Judith L. Freehling Trust, The GDO Partnership, Land Title Guarantee Company, Land Title Insurance Corporation, and Vollbracht Properties, LLC, all of Denver, Colorado; Dana L. Vollbracht, Castle Rock, Colorado; Alison Vollbracht Winfield, and Kirby Franklin Winfield III Trust, both of Seattle, Washington; to retain control of Alpine Banks of Colorado, and thereby indirectly retain control of Alpine Bank, both of Glenwood Springs, Colorado.

Board of Governors of the Federal Reserve System, May 8, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-11134 Filed 5-12-09; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank

indicated or the offices of the Board of Governors not later than June 8, 2009.

A. Federal Reserve Bank of Kansas City (Todd Offenbacher, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *First Okmulgee Corporation*, Okmulgee, Oklahoma; to acquire additional voting shares, for a total of up to 12.485 percent, of the voting shares of Coffeyville Bancorp, Inc., and thereby indirectly acquire additional voting shares of Community State Bank, both in Coffeyville, Kansas.

Board of Governors of the Federal Reserve System, May 8, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-11135 Filed 5-12-09; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 9 a.m. (Eastern Time) May 18, 2009.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC 20005.

STATUS: Parts will be open to the public and parts closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the minutes of the April 20, 2009 Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
 - a. Participant Activity Report.
 - b. Investment Performance Report.
 - c. Legislative Report.
3. Web site Re-Design Project.
4. Mid-year Budget Review.

Parts Closed to the Public

5. Personnel.

CONTACT PERSON FOR MORE INFORMATION:

Thomas J. Trabucco, Director, Office of External Affairs, (202) 942-1640.

Dated: May 8, 2009.

Thomas K. Emswiler,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. E9-11220 Filed 5-11-09; 11:15 am]

BILLING CODE 6760-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984.

Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (<http://www.fmc.gov>) or by contacting the Office of Agreements at (202)-523-5793 or tradeanalysis@fmc.gov.

Agreement No.: 011733-027.

Title: Common Ocean Carrier Platform Agreement.

Parties: A.P. Moller-Maersk A/S; CMA CGM; Hamburg-Süd; Hapag-Lloyd AG; Mediterranean Shipping Company S.A.; and United Arab Shipping Company (S.A.G.) as shareholder parties, and Alianca Navegacao e Logistica Ltda.; China Shipping Container Lines Company Limited; Companhia Sud Americana de Vapores, S.A.; Companhia Libra de Navegacao; COSCO Container Lines Co., Ltd.; Emirates Shipping Lines; Evergreen Line Joint Service Agreement; Gold Star Line, Ltd.; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co. Ltd; Kawasaki Kisen Kaisha, Ltd.; MISC Berhad; Mitsui O.S.K. lines Ltd.; Nippon Yusen Kaisha;

Safmarine Container Lines N.V.; Norasia Container Lines Limited; Tasman Orient Line C.V. and Zim Integrated Shipping as non-shareholder parties.

Filing Party: Wayne R. Rohde, Esq., Sher & Blackwell LLP, 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The amendment adds China Shipping Container Lines Company Limited as a non-shareholder party to the Agreement and deletes Senator Lines GmbH as a non-shareholder party.

Agreement No.: 011961-007.

Title: The Maritime Credit Agreement.

Parties: Alianca Navegacao e Logistica Ltda. & Cia; China Shipping Container Lines Co., Ltd.; CMA CGM, S.A.; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; Compania Sudamericana de Vapores, S.A.; COSCO Container Lines Company Limited; Dole Ocean Cargo Express; Hamburg-Süd; Hoegh Autoliners A/S; Independent Container Line Ltd.; Kawasaki Kisen Kaisha, Ltd.; Nippon Yusen Kaisha; Norasia Container Lines Limited; Safmarine Container Lines N.V.; Tropical Shipping & Construction Co., Ltd.; United Arab Shipping Company (S.A.G.); Wallenius

Wilhelmsen Logistics AS; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq., Sher & Blackwell LLP, 1850 M Street, NW., Suite 900, Washington, DC 20036.

Synopsis: The amendment would add Yangming Marine Transport Corp. as a party to the agreement.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. E9-11183 Filed 5-12-09; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515.

License No.	Name/address	Date reissued
002375F	Action Customs Expeditors, Inc., 115 Christopher Columbus Dr., Jersey City, NJ 07302	March 30, 2009.
020655N	Quest Cargo, Inc., 8412 NW. 70th Street, Miami, FL 33166	March 30, 2009.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9-11181 Filed 5-12-09; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515, effective on the corresponding date shown below:

License Number: 019915NF.

Name: Advanced Logistics Group Inc.

Address: 3780 Kilroy Airport Way, Ste. 820, Long Beach, CA 90806.

Date Revoked: March 20, 2009.

Reason: Failed to maintain valid bonds.

License Number: 020700F.

Name: Allen & Sally Associates, LLC dba USA Customs Brokers & Freight Forwarders.

Address: 7094 Peachtree Industrial Boulevard, Ste. 270-1, Norcross, GA 30071.

Date Revoked: April 22, 2009.

Reason: Failed to maintain a valid bond.

License Number: 019764N.

Name: Altorky Group Inc. dba In & Out Cargo.

Address: 2323 S. Voss, #203-C1, Houston, TX 77057.

Date Revoked: April 21, 2009.

Reason: Surrendered license voluntarily.

License Number: 003983F.

Name: Apollo Stevedoring Company, Inc. dba Jason Shipping Company.

Address: 13251 Eastern Ave., Port Manatee, Palmetto, FL 34221-6608.

Date Revoked: March 25, 2009.

Reason: Failed to maintain a valid bond.

License Number: 021399NF.

Name: AS Logistics, Inc. dba Amstan Logistics.

Address: 101 Knightsbridge Dr., Hamilton, OH 45011.

Date Revoked: March 15, 2009.

Reason: Failed to maintain valid bonds.

License Number: 015368N.

Name: Atlas C. Line, Ltd.

Address: 1701 NW. 84th Ave., Ste. 172, Doral, FL 33126-1001.

Date Revoked: March 22, 2009.

Reason: Failed to maintain a valid bond.

License Number: 013552N.

Name: Boston Shipping Enterprise, Inc.

Address: 506 Decatur Street, Brooklyn, NY 11233.

Date Revoked: April 16, 2009.

Reason: Failed to maintain a valid bond.

License Number: 004012F.

Name: Caraval, Inc.

Address: P.O. Box 440643, Miami, FL 33144.

Date Revoked: April 14, 2009.

Reason: Surrendered license voluntarily.

License Number: 014352N.

Name: Cargo Express, Inc.

Address: 545 Orchard Ave., Langhorne, PA 19047.

Date Revoked: April 27, 2009.

Reason: Surrendered license voluntarily.

License Number: 019557NF.

Name: Explam Corporation dba Explam Cargo.

Address: 9396 SW. 164th Ct., Miami, FL 33196.

Date Revoked: March 19, 2009.

Reason: Failed to maintain valid bonds.

License Number: 003722F.

Name: Falcon Transportation & Forwarding Corp.

Address: 500 Bi-County Blvd., Ste. 213N, Farmingdale, NY 11735.

Date Revoked: March 15, 2009.

Reason: Failed to maintain a valid bond.

License Number: 013070N.

Name: Florida Ocean Carrier, Inc.

Address: 7700 NW. 79th Place, Unit D-2, Medley, FL 33166.

Date Revoked: March 28, 2009.

Reason: Failed to maintain a valid bond.

License Number: 020676N.

Name: Global Partner Logistics NY, Inc. dba Worldwide Combined Logistics.

Address: 7 River Street, #91, Little Ferry, NJ 07643.

Date Revoked: April 8, 2009.

Reason: Surrendered license voluntarily.

License Number: 018485N.

Name: Global Ocean Freight, Inc.

Address: 100 NW. 82nd Ave., Ste. 302-303, Plantation, FL 33324.

Date Revoked: April 4, 2009.

Reason: Failed to maintain a valid bond.

License Number: 002396F.

Name: Import Brokers, Inc.

Address: 2801 NW. 74th Ave., Ste. 201, Miami, FL 33122.

Date Revoked: April 10, 2009.

Reason: Failed to maintain a valid bond.

License Number: 000858N.

Name: John A. Steer Co.

Address: 28 South 2nd Street, Philadelphia, PA 19106.

Date Revoked: April 29, 2009.

Reason: Failed to maintain a valid bond.

License Number: 016955NF.

Name: LEEO Shipping, Inc.

Address: 15934 So. Figueroa St., Gardena, CA 90248.

Date Revoked: April 3, 2009.

Reason: Failed to maintain valid bonds.

License Number: 019768NF.

Name: Link Cargo Int'l, LLC.

Address: 6019 Farmwood Way SE., Mableton, GA 30126.

Date Revoked: April 26, 2009.

Reason: Failed to maintain valid bonds.

License Number: 020562N.

Name: Lloyds Global Logistics, Inc. dba Lloydscargo.

Address: 615 N. Nash St., Ste. 303, El Segundo, CA 90245.

Date Revoked: April 11, 2009.

Reason: Failed to maintain a valid bond.

License Number: 021320F.

Name: Milan Freight Express Corp.

Address: 6708 NW. 82nd Ave., Miami, FL 33166.

Date Revoked: April 16, 2009.

Reason: Failed to maintain a valid bond.

License Number: 019278N.

Name: Nelcon Cargo Corp.

Address: 7270 Northwest 35th Terr., Ste. 102, Miami, FL 33122.

Date Revoked: March 29, 2009.

Reason: Failed to maintain a valid bond.

License Number: 006849N.

Name: Ocean-Air International, Inc.

Address: 490 Park Dr., Ste. 103, Weirton, WV 26062-4958.

Date Revoked: March 26, 2009.

Reason: Failed to maintain a valid bond.

License Number: 020012N.

Name: Prime Van Lines, Inc.

Address: 10 Park Ave., East Orange, NJ 07017.

Date Revoked: April 28, 2009.

Reason: Failed to maintain a valid bond.

License Number: 020655F.

Name: Quest Cargo, Inc.

Address: 8412 NW. 70th St., Miami, FL 33166.

Date Revoked: March 30, 2009.

Reason: Surrendered license voluntarily.

License Number: 019919N.

Name: Rathbourne Express, Inc.

Address: 72 East Suffolk Ave., Central Islip, NY 11722.

Date Revoked: April 10, 2009.

Reason: Failed to maintain a valid bond.

License Number: 016514F.

Name: Rosemark International LLC.

Address: 3491 Long Drive, Minden, NV 89432.

Date Revoked: March 7, 2009.

Reason: Failed to maintain a valid bond.

License Number: 001268F.

Name: Schick Moving & Storage Company.

Address: 2721 Michelle Dr., Tustin, CA 92780.

Date Revoked: April 17, 2009.

Reason: Failed to maintain a valid bond.

License Number: 020972F.

Name: Sunship International Acquisitions Incorporated.

Address: 6815 W. 95th St., Ste. 1-NE, Oak Lawn, IL 60453.

Date Revoked: April 1, 2009.

Reason: Failed to maintain a valid bond.

License Number: 020131N.

Name: Total Express, Inc. (U.S.A.).

Address: 2580 S. 156th St., Ste. A104, Seattle, WA 98168.

Date Revoked: April 11, 2009.

Reason: Failed to maintain a valid bond.

License Number: 000022F.

Name: Trans-World Shipping Corp.

Address: 75 Maiden Lane, New York, NY 10038.

Date Revoked: April 8, 2009.

Reason: Failed to maintain a valid bond.

License Number: 020517N.

Name: Trust Moving, Marketing & Logistics, Inc. dba TMM Logistics.

Address: 3533 NW. 58th St., Miami, FL 33142.

Date Revoked: March 25, 2009.

Reason: Surrendered license voluntarily.

License Number: 002962F.

Name: Valencia Shipping Agencies, Inc.

Address: Main Basic Center, 2000 Marginal Kennedy Ave., Ste. 411, San Juan, PR 00920.

Date Revoked: April 12, 2009.

Reason: Failed to maintain a valid bond.

License Number: 016269N.

Name: World Transportation Services, Inc. dba Global Express Line.

Address: 15900 Morales Rd., Houston, TX 77032.

Date Revoked: April 28, 2009.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. E9-11179 Filed 5-12-09; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

Express Worldwide Logistics, Inc., 3012 Holden Road, Lakeland, FL 33811. Officers: Eric J. Colon, Secretary (Qualifying Individual), Chi S. Wong, President.

PAL Shipping Lines, Inc., 12588 318th Ave., Princeton, MN 55371. Officer: Scott A. Frane, President (Qualifying Individual).

Onpoint International, LLC, 331 Charles Street, Iselin, NJ 08830. Officers: Devashi Upadhyaya, President (Qualifying Individual), Juan C. Ruelas, Vice President.

Chroonos International Cargo Corp., 6030 NW. 99th Ave., Doral, FL 33178. Officer: Paula Almeida, President (Qualifying Individual).

GAL (BOS) Inc., 580 Chelsea Street, East Boston, MA 02128. Officer: Chun Shing Ip, President (Qualifying Individual).

Global Alliance Logistics (LA) Inc., 9133 S. La Cienega Blvd., Ste. 270, Inglewood, CA 90301. Officer: Chun Shing Ip, President (Qualifying Individual).

JW J Express Inc., 149–23 182nd Street, Ste. 108, Jamaica, NY 11413. Officer: Charles Wu, Vice President (Qualifying Individual).

Global Alliance Logistics (NYC) Inc., Cross Island Plaza, Ste. 209, Rosedale, NY 11422. Officer: Chun Shing Ip, President (Qualifying Individual).

Blue Carrier Line, Inc., 2350 Hyland Blvd., Stanton Island, NY 10306. Officer: Kenney W. Whitman, President (Qualifying Individual).

Alexa Transport Corp., 8951 NW. 111 Terrace, Hialeah Gardens, FL 33018. Officer: Raxfel Alfonso, Vice President (Qualifying Individual).

Argen Shipping, LLC, 2900 NW. 75 Street, Miami, FL 33147. Officer: Leonard Martinez, Mgr. (Qualifying Individual).

Bernuth Express, LLC, 3201 NW. 24, Miami, FL 33142. Officer: Thomas R. Paelinck, Exec. Vice Pres. (Qualifying Individual).

Horizon International Cargo Inc., 5426 W. Rosecrane Ave., Hawthorne, CA 90250. Officers: Casey Young Pak, Asst. Secretary (Qualifying Individual), Nigel Davies, President.

Manila Cargo, Inc., 675 Hegenberger Road, Oakland, CA 94623. Officers:

Yea C. Tang, Secretary (Qualifying Individual), Gerardo R. DeGuzman, President.

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Knight Brokerage, LLC, 5601 W. Mohave, Ste. B, Phoenix, AZ 85043. Officers: Ryan D. Pett, Dir. Of Global Transportation (Qualifying Individual), Greg W. Ritter, President.

Indigo Logistics, LLC, 601 Interchange Drive, Atlanta, GA 30336. Officer: Brenda E. Netties, Member (Qualifying Individual).

Danzas Corporation dba Danmar Lines Ltd; dba Danmar Lines; dba DHL Global Forwarding; dba DHL Danzas Air & Ocean, 1200 So. Pine Island Road, Ste. 600, Plantation, FL 33324. Officer: Steen Christensen, Vice President (Qualifying Individual).

Middle East Shipping Co., Inc., 6013 Spencer Hwy., Ste. A, Pasadena, TX 77505. Officer: Muhammad Badr, President (Qualifying Individual).

Crowley Logistics Inc., 9487 Regency Square Blvd., Jacksonville, FL 32225. Officer: John Hourham, Vice President (Qualifying Individual).

Oceanic Container Line Inc., 2350 Hylan Blvd., Staten Island, NY 10306. Officer: Kenney Whitman, President (Qualifying Individual).

Well Port Container Line Inc., 257 Quentin Road, Brooklyn, NY 11223. Officers: Xi Bo Li, President (Qualifying Individual), Yueting Luo, Secretary.

Bon Trade Int'l. Corp., 9643 NW. 33 Street, Doral, FL 33172. Officer: Stephen A. Perret-Gentil, President (Qualifying Individual).

Peters & May USA, Inc. dba Compass Marine, 1656 Carmen Drive, Elk Grove Village, IL 60007. Officer: Matthew T. Marshall, Asst. Secretary (Qualifying Individual).

The Maritime Company For Navigation USA, Inc. dba The Maritime Company For Navigation, 330 Snyder Ave., Berkley Heights, NJ 07922. Officer: Cindy Singer, Vice President (Qualifying Individual).

Global Alliance Logistics (CHI) Inc., 710 Foster Ave., Bensenville, IL 60106. Officers: Chun Shing Ip, President (Qualifying Individual), Chi Chiu Fan, Vice President.

Action One Logistics, Inc., 115 Fulford Ave., Bel Air, MD 21014. Officers: David S. Edwards, President (Qualifying Individual), Belinda E. Richardson, Vice

President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Sun US Transport Corp., 810 W. Commonwealth Ave., Alhambra, CA 91801. Officer: Pete Paang, CEO (Qualifying Individual).

Prolog Services Incorporated dba PSI Ocean Freight Systems, 5803 Sovereign Dr., #220, Houston, TX 77036. Officers: Stanley A. Egbo, President (Qualifying Individual), Ernest C. Agu, Vice President.

CU Logistics Inc. dba CU Container Line Inc.; dba UC Forwarders Inc., 3671 Norwich Pl., Rowland Heights, CA 91748. Officer: Peiqing Zhang, Vice President (Qualifying Individual).

Global Management, Inc., 444 Grand Street, Paterson, NJ 07505. Officer: Hassan Shaaban, President (Qualifying Individual).

N.G.K. Corporation, 8560 NW. 64 Street, Miami, FL 33166. Officer: Gladys E. Fisboin, President (Qualifying Individual).

Liteship International LLC, 440 McClellan Highway, East Boston, MA 02128. Officers: James H. Breda, Manager/Member (Qualifying Individual), Eric J. Breda, Manager/Member.

USA InterCargo, LLC, 564 Industrial Drive, Carmel, IN 46032. Officer: Isabella G. Caballero, Export Manager (Qualifying Individual).

Ground and Well Water International, 821 S. Memphis Way, Aurora, CO 80017. Officer: Raymond T. Olatubosun, Vice President (Qualifying Individual).

Carolina Shipping Company, L.P. dba Cutlass Logistics Ltd., 1064 Gardner Road, Charleston, SC 29407. Officer: Dennis Forsberg, President (Qualifying Individual).

Dated: May 8, 2009.

Karen V. Gregory,

Secretary.

[FR Doc. E9–11185 Filed 5–12–09; 8:45 am]

BILLING CODE 6310–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0208]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department

of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections

referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to Sherrette.funncoleman@hhs.gov, or call the Reports Clearance Office on (202) 690-6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above email address within 60 days.

Proposed Project: Request for Applicant Background Survey—OMB No. Extension—0990-0208 Assistant Secretary for Administration and Management.

Abstract:

The Applicant Background Survey form will be used for the next three years by the Operating Divisions (OPDIVs). The major sub-organizations

within the Department of Health and Human Services (HHS), will collect and analyze data on race, sex, national origin, and disability from applicants for employment. Information will be collected by each of the personnel offices in the Department. The form will be used routinely by the OPDIVs when recruiting for all positions, including senior level positions and for selected job series where workforce analysis has shown evidence of low representation of minorities, women, or persons with disabilities. The results of the collection will assist the Department to determine if present recruitment sources yield qualified minority and female applicants and applicants with disabilities as required by EEOC MD 715.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response (minutes)	Total burden hours
Individuals	30,000	1	2	1,000

Terry Nicolosi,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E9-11078 Filed 5-12-09; 8:45 am]

BILLING CODE 4151-17-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: "Coordinating Care across Primary Care and Specialty Care Practices." 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 March 5th, 2009 and

allowed 60 days for public comment. One comment was received. The purpose of this notice is to allow an additional 30 days for public comment. This notice differs from the 60 day notice in that the Patient Satisfaction Survey has been eliminated.

DATES: Comments on this notice must be received by June 12, 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@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION:

Proposed Project

"Coordinating Care across Primary Care and Specialty Care Practices."

AHRQ proposes an evaluation of the redesign of the transitions of care between primary care and specialty care services. The purpose of the redesign is to remedy inefficiencies in the current referral processes that threaten care quality and safety, and system

efficiency. This redesign is being implemented at the Boston Medical Center (BMC), and two affiliated health centers. The evaluation will be conducted for AHRQ by its contractor, the Boston University School of Public Health (BUSPH).

Care coordination has been identified by the Institute of Medicine (IOM) as a key strategy with potential to improve the effectiveness, safety and efficiency of the health care system. At the same time, care coordination, particularly in transitions among sites of care, is often lacking. Research shows that problems in coordination of care and common failures in patients' transitioning between and among systems typically create serious quality concerns in many settings. Individuals moving across systems of care and between care providers are vulnerable to fragmented and disjointed care (Coleman *et al.*, 2004). Uncoordinated and fragmented transitions can lead to a wide range of costly problems and threats to patient safety including greater use of hospital and emergency services (Coleman *et al.*, 2004), ordering and completion of redundant tests (Coleman & Berenson, 2004), prescription and medication errors and use of poly-pharmacy by multiple providers (Coleman & Berenson, 2004). The end result is often confusion about conflicting care plans and lack of follow-up care. The aim of

this evaluation is to address this confusion and fragmentation by expanding knowledge of how to improve the experience and outcomes for patients in transitions of care between primary care and specialty practices. The initial focus is on referrals between primary care and two specialties: gastroenterology (GI) and obstetrics (OB). The redesigned referral system will be tested by implementing it in three participating primary care sites and two specialty clinics. We expect that the lessons learned from this evaluation will provide a model and tools that can later easily be tested and applied to other sites and specialties in the BMC system and provide lessons learned to other systems seeking to sustainably improve their referral systems.

This project is being conducted pursuant to AHRQ's statutory authority to conduct research and evaluations on health care and systems for the delivery of such care, including activities with respect to: The quality, effectiveness, efficiency, appropriateness and value of health care services; clinical practice, including primary care and practice-oriented research; and health care costs, productivity, organization, and market

forces. See 42 U.S.C. 299a(a)(1), (4) and (6).

The overall aims of the evaluation are to provide a rigorous assessment of the success of the redesigned referral system in meeting its improvement goals and to gain an understanding of the implementation of the redesigned system.

Method of Collection

This evaluation will include the following data collections:

- Medical record data will be used to analyze aspects of the referral process, such as percentage of items on referral forms filled in, proportion of specialty appointments made, time between referral and initial specialty appointment. Patients' personal health data will not be analyzed. The medical record data will be used to measure both the fidelity of the redesigned system within the practices and success in meeting redesign improvement goal (outcome) indicators. The medical record data will be extracted by project staff and will not impose a burden on the participating health care sites.

- Focus groups with providers, clinical staff and administrative staff will be conducted in each primary care site and in each specialty practice. The

group sessions will pursue three topics: The extent to which the new system is being used as intended; the perceived effectiveness of the new system as implemented; and the organization and culture of the clinical setting. Themes from the focus groups will be used to assess fidelity of implementation, performance outcomes and factors affecting fidelity and outcomes.

- Implementation logs and meeting notes kept by the project team throughout the redesign implementation will document the implementation process, including factors affecting the process, challenges encountered, and strategies for dealing with the challenges. This component of the evaluation will not impose a burden on the participating health care sites.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this two year evaluation. Focus groups will be conducted with about 21 clinical staff at each of the 3 primary care sites and 2 specialty care sites (Exhibit 1 shows 2.5 sites per year). Each focus group session will last about 45 minutes. The total annualized burden is estimated to be 39 hours.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Focus groups	2.5	21	45/60	39
Total	2.5	na	na	39

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in

this project. The total annualized cost burden is estimated to be \$1,463.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Focus groups	2.5	39	\$37.50	\$1,463
Total	2.5	39	na	1,463

* The hourly wage is based upon the weighted mean of the average wages for physicians (\$58.76, n=45), clinical administrative staff (\$17.64, n=30) and other clinical staff (\$25.48, n=30). National Compensation Survey: Occupational Wages in the United States, U.S. Department of Labor, Bureau of Labor Statistics. June 2007, Summary 0703, http://www.bls.gov/ncs/ocs/sp/ncblo9_1_0.pdf. Accessed December 10, 2008.

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the estimated total and annualized cost for this two-year

evaluation. The total cost is \$155,110 and includes \$23,267 for project development, \$32,573 for data collection activities, \$31,022 for data

processing and analysis, \$15,511 for the publication of results, \$12,408 for project management and \$40,329 for overhead.

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST

Cost component	Total cost	Annualized cost
Project Development	\$23,267	\$11,633
Data Collection Activities	32,573	16,287
Data Processing and Analysis	31,022	15,511
Publication of Results	15,511	7,756
Project Management	12,408	6,204
Overhead	40,329	20,164
Total	155,110	77,555

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: May 4, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9-11009 Filed 5-12-09; 8:45 am]

BILLING CODE 4160-90-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Health Resources and Services Administration****Agency Information Collection Activities: Proposed Collection: Comment Request**

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104-13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail paperwork@hrsa.gov or call the HRSA Reports Clearance Officer on (301) 443-1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (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 Title: Interim Evaluation of the Bright Futures for Women's Health and Wellness (BFWHW) Initiative, Emotional Wellness Consumer Tools—NEW.

Purpose: The purpose of this project is to design and implement a three-year interim evaluation to address initial outcomes for the BFWHW emotional wellness tools targeted at consumers. The project is funded by the Health Resources and Services Administrations (HRSA), Office of Women's Health (OWH). The evaluation will seek to determine (1) the acceptability of the tools by the target audiences, (2) strategies for ensuring their ongoing use, and (3) the outcomes associated with the use of these tools in three to four selected primary care sites.

The evaluation team will work with HRSA OWH and an Expert Committee to identify the questions of interest for the evaluation plan and methodology. There will be two major components—a descriptive/process component focusing on the design and implementation of the program's intervention and an impact component focusing on the preliminary outcomes of the intervention on the target audiences and their behavioral intentions.

Respondents:

Female consumers (adolescents between the ages of 13 and 17 and adults 18 and older) who receive services from primary care sites or community service organizations will receive a written survey on site at the time of service.

Distributors of the Consumer Tools (e.g., healthcare providers, program staff, and community stakeholders/organizations) from the three to four selected HRSA-funded program sites will respond to a web-based written survey.

Female consumers (adolescents between the ages of 13 and 17 and adults 18 and older) who receive services from primary care sites or community service organizations will be invited to participate in a focus group.

ANNUAL BURDEN ESTIMATES

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Survey of Consumers	563	1	563	0.5	281.5
Survey of the Distributors of the Consumer Tools	40	1	40	0.5	20
Consumer Focus Groups	4 sites × 16 focus group participants per site = 64.	1	64	1.5	96
Total	667	3	667	2.5	397.5

E-mail comments to paperwork@hrsa.gov or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 5, 2009.

Alexandra Huttinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E9–11086 Filed 5–12–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–09–0607]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 or send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to omb@cdc.gov.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

The National Violent Death Reporting System (NVDRS) OMB# 0920–0607—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Violence is an important public health problem. In the United States, homicide and suicide are the second and third leading causes of death, respectively, in the 1–34 year old age group. Unfortunately, public health agencies do not know much more about the problem than the numbers and the sex, race, and age of the victims, all information obtainable from the standard death certificate. Death certificates, however, carry no information about key facts necessary for prevention such as the relationship of the victim and suspect and the circumstances of the deaths, thereby making it impossible to discern anything but the gross contours of the problem. Furthermore, death certificates are typically available 20 months after the completion of a single calendar year. Official publications of national violent death rates, *e.g.* those in *Morbidity and Mortality Weekly Report*, rarely use data that is less than two years old. Public health interventions aimed at a moving target last seen two years ago may well miss the mark.

Local and Federal criminal justice agencies such as the Federal Bureau of Investigation (FBI) provide slightly more information about homicides, but they do not routinely collect standardized data about suicides, which are in fact much more common than homicides. The FBI's Supplemental Homicide Report (SHRs) does collect basic information about the victim-suspect

relationship and circumstances related to the homicide. SHRs do not link violent deaths that are part of one incident such as homicide-suicides. It also is a voluntary system in which some 10–20 percent of police departments nationwide do not participate. The FBI's National Incident Based Reporting System (NIBRS) provides slightly more information than SHRs, but it covers less of the country than SHRs. NIBRS also only provides data regarding homicides. Also, the Bureau of Justice Statistics Reports does not use data that is less than two years old.

CDC therefore proposes to continue a state-based surveillance system for violent deaths that will provide more detailed and timely information. It taps into the case records held by medical examiners/coroners, police, and crime labs. Data is collected centrally by each state in the system, stripped of identifiers, and then sent to the CDC. Information is collected from these records about the characteristics of the victims and suspects, the circumstances of the deaths, and the weapons involved. States use standardized data elements and software designed by CDC. Ultimately, this information will guide states in designing programs that reduce multiple forms of violence.

Neither victim families nor suspects are contacted to collect this information. It all comes from existing records and is collected by state health department staff or their subcontractors. Health departments incur an average of 2.5 hours per death in identifying the deaths from death certificates, contacting the police and medical examiners to get copies of or to view the relevant records, abstracting all the records, various data processing tasks, various administrative tasks, data utilization, training, communications, etc.

This revision is a request to allow 10 new state health departments to be added to the currently funded 17, if funding becomes available. This may bring the total to 27 by the year 2012.

Violent deaths include all homicides, suicides, legal interventions, deaths from undetermined causes, and unintentional firearm deaths. The

average state will experience approximately 1,000 such deaths each year.

There is no cost to respondents to participate other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
State Health Departments	27	1,000	2.5	67,500

Dated: May 6, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9-11128 Filed 5-12-09; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Conunent 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: "Health Literacy Item Set Supplemental to CAHPS Hospital Survey—Pretest of Proposed Questions and Methodology." In accordance with the Paperwork Reduction Act of 1995, Public Law 104-13 (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 July 13, 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

"Health Literacy Item Set Supplemental to CAHPS Hospital Survey—Pretest of Proposed Questions and Methodology"

AHRQ proposes to conduct a pretest of the Consumer Assessment of Healthcare Providers and Systems (CAHPSR) Hospital Survey health literacy module. The CAHPS program is a multi-year initiative of the Agency for Healthcare Research and Quality. AHRQ first launched the program in October 1995 in response to concerns about the lack of good information about the quality of health plans from the enrollees' perspective. Numerous public and private organizations collected information on enrollee and patient satisfaction, but the surveys varied from sponsor to sponsor and often changed from year to year. The CAHPSR program was designed to make it possible to compare survey results across sponsors and over time, and to generate tools and resources that sponsors can use to produce understandable and usable comparative information for consumers.

Over time, the program has expanded beyond its original focus on health plans to address a range of health care services to meet the various needs of health care consumers, purchasers, health plans, providers, and policymakers. Based on a literature review and an assessment of currently available questionnaires, AHRQ identified the need to develop a health literacy module for the CAHPSR Hospital Survey. The intent of the planned module is to examine patients' perspectives on how well health information is communicated to them by healthcare professionals in the hospital setting. The objective of the new module is to provide information to health plans, hospitals, clinicians, group practices, and other interested parties regarding the quality of health information delivered to patients. The set of questions about health literacy will be evaluated as a supplement to the CAHPSR Hospital Survey.

This study will be conducted for AHRQ by its contactor, RAND Corporation. It is being conducted pursuant to AHRQ's statutory authority to conduct research and evaluations on health care and systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services. See 42 U.S.C. 299a(a)(1).

This study is a one-time field test to be completed in the calendar years 2009 and 2010. The field test to be conducted under this request will be done for the following purposes:

a. Analysis of item wording—Assess candidate wordings for items.

b. Analysis of participation rate—Evaluate the overall response rate and the proportion of that obtained from mail versus telephone modes of data collection.

c. Case mix adjustment analysis—Evaluate variables that need to be considered for case mix adjustment of scores.

d. Psychometric Analysis—Provide information for the revision of the health literacy item set based on the assessment of the reliability and validity.

The end result will be collection of the data related to the assessment of patients' perspective on how well health information is communicated to them by health care professionals in hospital setting. The field testing will ensure that future data collections yield high quality data and minimize respondent burden, increase agency efficiency, and improve responsiveness to the public. The survey items will be added to currently available CAHPS R surveys and will enhance the ability of hospitals to assess the quality of their services.

Method of Collection

The potential respondent universe is persons who had at least one overnight stay at a hospital within the previous five months. Excluded from the study will be those who were less than 18 years old at the time of their admission, had a psychiatric diagnosis, were

discharged to a hospice facility or died during the hospitalization. Testing sites will be selected purposively based on several considerations, including ability to execute the activities necessary to participate in the pilot, number of beds, number of discharges for medical, surgical, and obstetric patients, average length of stay, location (urban versus rural), profit status, and academic medical center status.

The draw will be a sample large enough to yield approximately 600 completes. It is assumed that approximately 1200 patients will be sampled across all field sites with a response rate of 50%. This pretest will use a mixed mail-telephone mode of data collection which will include the following steps:

- Mailing an advanced notification letter
- Mailing of the questionnaire and cover letter
- Postcard reminder
- A second mailing of the questionnaire to non-respondents.
- Up to 10 telephone calls to every mail non-respondent approximately two weeks after the final mailing.

Every effort will be made to maximize the response rate, while retaining the voluntary nature of the effort. An advanced notice will be mailed prior to mailing the survey and will include a letter explaining what the survey is about, who is doing it and why, and

providing contact information for questions. The second mailing and telephone follow-up are expected to result in significant increases in response. Every effort to maximize the response rate among Spanish-speaking respondents will be made. A Spanish version of the advance notice, the questionnaire, cover letters, and the reminder card, as well as a Spanish version of the telephone transcript have been developed. The cover letters in English include a note in Spanish instructing respondents to call a toll free number if they would like to receive a copy of the survey in Spanish. In addition, participating field sites will ask for information on language preference and/or race/ethnicity of sample patients so that the mailing of the survey can be tailored for Spanish-speakers.

Finally, phone follow-up to respondents who do not complete the survey by mail will be conducted by bilingual interviewers so that those who want to complete the survey by telephone in either English or Spanish can be accommodated.

Surveys generally do not yield complete responses from every individual sampled from the population. In this analysis, patterns of both unit and item nonresponse will be examined and modeled, and the potential impact of nonresponse bias assessed. A common set of

administrative variables (e.g., age, gender, race/ethnicity) will be used to predict unit nonresponse. These variables and others collected on the survey itself will be used as predictors of item nonresponse. Case mix adjustment and nonresponse weights will be used to more accurately reflect consumer experiences with health care in the field test hospitals. Multivariate logistic regression models will be used to analyze the factors associated with unit nonresponse and item nonresponse.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden for the respondents' time to participate in this data collection. The CAHPS Hospital Survey Health Literacy Module will be completed by about 600 persons in total, or an annual average of 400 persons per year for the 18 months of the pretest. The estimated response time of 20 minutes is based on the written length of the survey and AHRQ's experience with previous CAHPS® surveys of comparable length that were fielded with similar samples. The total annualized burden hours are estimated to be 133 hours.

Exhibit 2 shows the respondents' cost burden associated with their time to participate in this data collection. The total annualized cost burden is estimated to be \$2,601.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Mail survey with reminder card, mail and phone follow-up	400	1	20/60	133
Total	400	1	na	133

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Mail survey with reminder card, mail and phone follow-up	400	133	\$19.56	\$2,601
Total	400	133	na	2,601

* Based upon the average wages, "National Compensation Survey: Occupational Wages in the United States, May 2007," U.S. Department of Labor, Bureau of Labor Statistics.

Estimated Annual Costs to the Federal Government

The total cost for the contracted service is approximately \$245,000 and

the cost for AHRQ staff to oversee the project is \$50,000, including benefits. The project was initiated in October of 2008 and it is forecasted that it will be completed in 18 months. It is estimated

that the total cost of the project is approximately \$295,000. The annualized cost of the project is approximately \$196,669.

EXHIBIT 3—ESTIMATED COST

Cost component	Total cost	Annualized cost
Review of literature	\$20,000	\$13,334
Cognitive interviews	60,000	40,000
Field test	90,000	60,000
Data analyses	40,000	26,667
Finalize survey	35,000	23,334
AHRQ project management	50,000	33,334
Total	295,000	196,669

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 and health care 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: May 4, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9-11012 Filed 5-12-09; 8:45 am]

BILLING CODE 4160-90-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2004-D-0122] (formerly Docket No. 2004D-0327)

Compliance Guidance for Small Business Entities on Labeling Over-the-Counter Human Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a compliance guidance for small business entities entitled "Labeling OTC Human Drug Products; Small Entity Compliance Guide." FDA has prepared this guidance in accordance with the Small Business Regulatory Enforcement Fairness Act. It is intended to help small businesses better understand and comply with the agency's over-the-counter (OTC) labeling requirements and to prepare new labeling. This compliance guidance finalizes the draft compliance guidance published on December 9, 2004.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of this compliance guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the compliance guidance to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.regulations.gov>. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the compliance guidance document.

FOR FURTHER INFORMATION CONTACT:

Marina Y. Chang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 5418, Silver Spring, MD 20993-0002, 301-796-2090.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a compliance guidance for small business entities entitled "Labeling OTC Human Drug Products; Small Entity Compliance Guide." FDA has prepared

this guidance in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act. This is one of several guidances the agency has developed to help manufacturers, packers, and distributors implement the final rule establishing standardized content and format requirements for the labeling of all OTC drug products. Once finalized, these guidances supersede all other statements, feedback, and correspondence provided by the agency on these matters since the issuance of the final rule.

In the **Federal Register** of March 17, 1999 (64 FR 13254), FDA published a final rule establishing standardized content and format requirements for the labeling of OTC drug products (21 CFR 201.66). This regulation is intended to standardize labeling for all OTC drug products so consumers can easily read and understand OTC drug product labeling and use these products safely and effectively. The regulation requires manufacturers to present OTC drug labeling information in a prescribed order and format. The standardized format requires revision of all existing labeling and covers all OTC drug and drug-cosmetic products, whether marketed under a new drug application, abbreviated new drug application, or OTC drug monograph (or drug product not yet the subject of a final OTC drug monograph).

Following issuance of the final rule, the agency received a number of inquiries from manufacturers seeking guidance on how to present the labeling information for their OTC drug products using the standardized content and format requirements. To address these inquiries, FDA published a notice in the **Federal Register** of December 9, 2004 (69 FR 71420), announcing the availability of a draft compliance guidance for small business entities entitled "Labeling OTC Human Drug Products; Small Entity Compliance Guide." The draft compliance guidance summarizes the new Drug Facts labeling requirements set forth in § 201.66. The

draft compliance guidance also describes how to list those inactive ingredients that are different when a finished OTC drug product is obtained from multiple suppliers.

The notice invited interested persons to submit comments on the draft compliance guidance by February 7, 2005. FDA did not receive any comments in response to the notice, and is announcing the availability of this final compliance guidance with only editorial revisions to the draft guidance.

This compliance guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The compliance guidance represents the agency's current thinking on how OTC drug product labeling can be converted to the new OTC Drug Facts format labeling. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either <http://www.fda.gov/cder/guidance/index.htm> or <http://www.regulations.gov>.

May 4, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9-11089 Filed 5-12-09; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Fogarty International Center; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is

hereby given of a meeting of the Fogarty International Center Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Fogarty International Center Advisory Board.

Date: May 18–19, 2009.

Closed: May 18, 2009, 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Lawton Chiles International House, Bethesda, MD 20892.

Open: May 19, 2009, 8:30 a.m. to 4 p.m.

Agenda: Discussions will focus on FIC activities and plans. Topics to be discussed: The pros/cons of creating an FIC centers-type grant; Priorities in distance learning applications and public health informatics; and future directions for the FIC framework program.

Place: National Institutes of Health, Lawton Chiles International House, Bethesda, MD 20892.

Contact Person: Robert Eiss, Public Health Advisor, Fogarty International Center, National Institutes of Health, 31 Center Drive, Room B2C02, Bethesda, MD 20892, (301) 496-1415, EISSR@MAIL.NIH.GOV.

This meeting is being published less than 15 days prior to the meeting due to timing limitations imposed by administrative matters.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, drivers license, or passport) and to state the purpose of their visit. Information is also available on the Institutes/Centers home page: <http://www.nih.gov/fic/aboutladvicory.html>, where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

www.nih.gov/fic/aboutladvicory.html, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

Dated: May 5, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-11002 Filed 5-12-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel; Competitive Revision.

Date: June 12, 2009.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Arthur A. Petrosian, Scientific Review Administrator, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892-7968, 301-496-4253, petrosia@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: May 5, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-11005 Filed 5-12-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following meeting:

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: June 4, 2009, 1 pm to 5:30 pm EDT. June 5, 2009, 9 a.m. to 12 p.m. EDT.

Place: Parklawn Building (and via audio conference call), Conference Rooms G & H, 5600 Fishers Lane, Rockville, MD 20857.

The ACCV will meet on Thursday, June 4 from 1 pm to 5:30 pm (EDT) and Friday, June 5 from 9 a.m. to 12 p.m. (EDT). The public can join the meeting via audio conference call by dialing 1-888-790-1959 on June 4 & 5 and providing the following information:

Leader's Name: Dr. Geoffrey Evans.

Password: ACCV.

Agenda: The agenda items for the June meeting will include, but are not limited to: Updates from the Division of Vaccine Injury Compensation (DVIC), Department of Justice, National Vaccine Program Office, Immunization Safety Office (Centers for Disease Control and Prevention), National Institute of Allergy and Infectious Diseases (National Institutes of Health), Center for Biologics, Evaluation and Research (Food and Drug Administration), an update from the IOM on the project to review adverse effects of vaccines, and a final report from Altarum Institute on the Petitioner's Satisfaction Survey. Agenda items are subject to change as priorities dictate.

Public Comments: Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Michelle Herzog, DVIC, Healthcare Systems Bureau (HSB), Health Resources and Services Administration (HRSA), Room 11C-26, 5600 Fishers Lane, Rockville, Maryland 20857 or e-mail: mherzog@hrsa.gov. Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. DVIC will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for a presentation, but desire to make an oral statement, may announce it at the time of the

comment period. These persons will be allocated time as it permits.

For Further Information Contact: Anyone requiring information regarding the ACCV should contact Michelle Herzog, DVIC, HSB, HRSA, Room 11C-26, 5600 Fishers Lane, Rockville, MD 20857; telephone (301) 443-6593 or e-mail: mherzog@hrsa.gov.

Dated: May 5, 2009.

Alexandra Huttlinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E9-11084 Filed 5-12-09; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Task Force on Community Preventive Services

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Task Force on Community Preventive Services.

Times and Dates: 8 a.m.-6 p.m. EST, June 17, 2009; 8 a.m.-1 p.m. EST, June 18, 2009.

Place: Centers for Disease Control and Prevention, 2500 Century Parkway, Room 1200/1201, Atlanta, Georgia 30345.

Status: Open to the public, limited only by the space available.

Purpose: The mission of the Task Force is to develop and publish the *Guide to Community Preventive Services (Community Guide)*, which consists of systematic reviews of the best available scientific evidence and associated recommendations regarding what works in the delivery of essential public health services.

Topics include:

- Interventions to increase vaccination coverage in children, adolescents, and adults: An Update "of" the vaccination requirements review
 - Using Population Levels of Alcohol Consumption as an Indicator of Excessive Alcohol Consumption and Related Harms
 - Group-based Interventions to Prevent Adolescent Pregnancy, HIV, Other Sexually Transmitted Infections: A Systematic Review and Meta-analyses
 - Update on the Community Guide Web site
 - VPD Updates: School-based Vaccination Programs
 - Mass Media Campaigns to Increase Physical Activity
 - Technology-based Strategies to Prevent and/or Control Obesity: Technology-based Multi-component Counseling
- Agenda items are subject to change as priorities dictate.

Persons interested in reserving a space for this meeting should call Charlene Crawford at 404-498-2498.

Contact person for additional information: Charlene Crawford, Coordinating Center for

Health Information and Services, National Center for Health Marketing, Office of the Director, 1600 Clifton Road, M/S E-69, Atlanta, GA 30329, phone: 404-498-2498.

Dated: May 6, 2009.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E9-11138 Filed 5-12-09; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (BSC, NCEH/ATSDR)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), CDC and NCEH/ATSDR announce the following meeting of the aforementioned committee:

Times and Dates: 8:30 a.m.-4 p.m., May 28, 2009. 8:30 a.m.-12:15 p.m., May 29, 2009.

Place: Centers for Disease Control and Prevention, 4770 Buford Highway, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people.

Purpose: The Secretary, Department of Health and Human Services (HHS) and by delegation, the Director, CDC and Administrator, ATSDR, are authorized under Section 301 (42 U.S.C. 241) and Section 311 (42 U.S.C. 243) of the Public Health Service Act, as amended, to: (1) Conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments; (2) assist states and their political subdivisions in the prevention of infectious diseases and other preventable conditions and in the promotion of health and well being; and (3) train state and local personnel in health work. The BSC, NCEH/ATSDR provides advice and guidance to the Secretary, HHS; the Director, CDC and Administrator, ATSDR; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agency's mission to protect and promote people's health. The board provides advice and guidance that will assist NCEH/ATSDR in ensuring scientific quality, timeliness, utility, and dissemination of results. The board also provides guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Matters To Be Discussed: The agenda items will include updates by the Director of

NCEH/ATSDR on activities and events subsequent to the BSC's November, 2008 meeting; responses by the programs to previous BSC Program Peer Reviews (ATSDR Site Specific Activities; NCEH/ATSDR Preparedness and Emergency Response Programs; NCEH/ATSDR Internal Clearance and External Peer Review Policies and Procedures; overview of the 2009 National Environmental Public Health Conference; opportunities to expand the BSC involvement with the NCEH/ATSDR National Conversation on Public Health and Chemical Exposures; approach and planning for future BSC Program Peer Reviews; and an overview of the NCEH Division of Emergency and Environmental Health Services.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, 4770 Buford Highway, Mail Stop F-61, Chamblee, Georgia 30345; telephone 770/488-0575, fax 770/488-3377; e-mail: smalcom@cdc.gov. The deadline for notification of attendance is May 22, 2009.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and NCEH/ATSDR.

Dated: May 7, 2009.

Andre Tyler,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. E9-11127 Filed 5-12-09; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel; R011K99 (Conflicts).

Date: June 19, 2009.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, National Institutes of Health, 6705 Rockledge Drive, Suite 301, MSC 7968, Bethesda, MD 20892-7968, 301-594-4937, huangz@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: May 5, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-11006 Filed 5-12-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biomedical Library and Informatics Review Committee, June 11, 2009, 8 a.m. to June 12, 2009, 2 p.m., National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892 which was published in the **Federal Register** on March 27, 2009, 74 FR 13446.

The meeting dates were previously scheduled for June 11-12, 2009, and the meeting will now will be held on June 11, 2009. The meeting is closed to the public.

Dated: May 5, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-11003 Filed 5-12-09; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I-777, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I-777, Application for Issuance or

Replacement of Northern Mariana Card; OMB Control No. 1615-0042.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 13, 2009.

During this 60 day period, USCIS will be evaluating whether to revise the Form I-777. Should USCIS decide to revise Form I-777 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I-777.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, NW., Washington, DC 20529-2210. Comments may also be submitted to DHS via facsimile to 202-272-8352, or via e-mail at rfs.regs@dhs.gov. When submitting comments by email please add the OMB Control No. 1615-0042 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) 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;

(2) 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;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:*

Application for Issuance or Replacement of Northern Mariana Card.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I-777. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This information collection is used by applicants applying for a Northern Mariana identification card if they received United States citizenship pursuant to Public Law 94-241 (Covenant to Establish a Commonwealth of the Northern Mariana Islands).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: <http://www.regulations.gov/fdmspublic/component/main>.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529-2210, telephone number 202-272-8377.

Dated: May 7, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9-11080 Filed 5-12-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N-4, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form N-4, Monthly Report Naturalization Papers; OMB Control Number 1615-0051.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has

submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 13, 2009.

During this 60-day period, USCIS will be evaluating whether to revise the Form N-4. Should USCIS decide to revise the Form N-4 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form N-4.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529-2210. Comments may also be submitted to DHS via facsimile to (202) 272-8352 or via e-mail at rfs.regs@dhs.gov. When submitting comments by e-mail please make sure to add OMB Control Number 1615-0051 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Monthly Report Naturalization Papers.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N-4; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State or local Governments. Section 339 of the Immigration and Nationality Act (Act) requires that the clerk of each court that administers the oath of allegiance notify U.S. Citizenship and Immigration Services (USCIS) of all persons to whom the oath of allegiance for naturalization is administered, within 30 days after the close of the month in which the oath was administered. This form provides a format for submitting a list of those persons to USCIS and provides accountability for the delivery of the certificates of naturalization as required under that section of law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 160 respondents at 12 responses annually at 30 minutes (.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 960 annual burden hours.

If you need a copy of the information collection instrument, please visit: <http://www.regulations.gov/fdmspublic/component/main>.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529-2210, Telephone number 202-272-8377.

Dated: May 7, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9-11082 Filed 5-12-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Country of Origin Marking Requirements for Containers or Holders

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day Notice and request for comments; Extension of an existing information collection: 1651-0057.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of

Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Country of Origin Marking Requirement for Containers or Holders. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (74 FR 5847–5848) on February 2, 2009, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments.

This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 12, 2009.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Department of Homeland Security/ Customs and Border Protection, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Country of Origin Marking Requirements for Containers or Holders.
OMB Number: 1651–0057.

Form Number: None.

Abstract: Containers or holders imported into the United States destined for an ultimate purchaser must be marked with the English name of the country of origin at the time of importation into Customs territory.

Current Actions: There are no changes to the information collection. This submission is being made to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 250.

Estimated Number of Annual Responses per Respondent: 40.

Estimated Number of Total Annual Responses: 10,000.

Estimated Time per Respondent: 15 seconds.

Estimated Total Annual Burden Hours: 41.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC. 20229–1177, at 202–325–0265.

Dated: May 6, 2009.

Tracey Denning,

Agency Clearance Officer, Customs and Border Protection.

[FR Doc. E9–11191 Filed 5–12–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Bonded Warehouse Proprietor's Submission

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day Notice and request for comments; Extension of an existing information collection: 1651–0033.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Bonded Warehouse Proprietor's Submission. This is a proposed extension of an information collection that was previously

approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (74 FR 5669) on January 30, 2009, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 12, 2009.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Department of Homeland Security/ Customs and Border Protection, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity (3) of the methodology and assumptions used;
- (4) Enhance the quality, utility, and clarity of the information to be collected; and
- (5) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Bonded Warehouse Proprietor's Submission.

OMB Number: 1651–0033.

Form Number: CBP Form 300.

Abstract: CBP Form 300 is prepared by Bonded Warehouse Proprietor and submitted to CBP annually. The document reflects all bonded merchandise entered, released, and

manipulated, and includes beginning and ending inventories.

Current Actions: There are no changes to the information collection. This submission is being made to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 1,800.

Estimated Time per Respondent: 24.3 hours.

Estimated Total Annual Burden Hours: 43,740.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC. 20229-1177, at 202-325-0265.

Dated: May 6, 2009.

Tracey Denning,

Agency Clearance Officer, Customs and Border Protection.

[FR Doc. E9-11187 Filed 5-12-09; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5200-FA-14]

Announcement of Funding Awards for the Resident Opportunities and Self-Sufficiency (ROSS) Service Coordinators Program for Fiscal Year 2008

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department for funding under the FY 2008 Notice of Funding Availability (NOFA) for the Resident Opportunities and Self-Sufficiency (ROSS) Service Coordinators Program funding for Fiscal Year 2008. This announcement contains the consolidated names and addresses of those award recipients selected for funding based on the funding priority categories established in the NOFA.

FOR FURTHER INFORMATION CONTACT: For questions concerning the FY 2008 Resident Opportunities and Self-Sufficiency (ROSS) Service Coordinators Program awards, contact the Office of Public and Indian Housing's Grant Management Center, Acting Director, Keia L. Neal, Department of Housing and Urban Development, Washington, DC, telephone (202) 475-8908. For the hearing or speech impaired, these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1 (800) 877-8339. (Other than the "800" TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The authority for the \$28,000,000 in one-year budget authority for the Resident Opportunities and Self-Sufficiency (ROSS) Service Coordinators Program is

found in the Departments of Veteran Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2008 (Pub. L. 110-161). The allocation of housing assistance budget authority is pursuant to the provisions of 24 CFR part 791, subpart D, implementing section 213(d) of the Housing and Community Development Act of 1974, as amended.

The purpose of the ROSS Service Coordinators program is to provide funding to hire and maintain Service Coordinators who will assess the needs of residents of conventional Public Housing or Indian housing and coordinate available resources in the community to meet those needs. The ultimate goal of the Service Coordinator is to assist families to increase earned income and move towards economic and housing self-sufficiency.

The Fiscal Year 2008 awards announced in this Notice were selected for funding in a competition announced in the **Federal Register** NOFA published on May 12, 2008. In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 93 awards made under the Resident Opportunities and Self-Sufficiency Service Coordinators competition.

Dated: April 28, 2009.

Paula O. Blunt,

General Deputy Assistant Secretary for Public and Indian Housing.

Recipient	Address	City	State	Zip code	Amount
Kenaitze/Salamatof Tribally Designated Housing Entity.	P.O. Box 988, 150 N. Willow Street	Kenai	AK	99611	\$240,000
Prichard Housing Authority	4559 St. Stephens Road	Eight Mile	AL	36613	240,000
The Housing Authority of the City of Huntsville.	200 Washington Street	Huntsville	AL	35804	462,000
Pinal County Division of Housing	970 No. Eleven Mile Corner Road ...	Casa Grande	AZ	85294	186,000
Housing Authority of the City of Madera.	205 North G Street	Madera	CA	93637	207,564
Housing Authority of the City of San Buenaventura.	995 Riverside Street	Ventura	CA	93001	204,000
Housing Authority of the County of Merced.	405 U Street	Merced	CA	95340	240,000
Housing Authority of the County of Riverside.	5555 Arlington Avenue	Riverside	CA	92504	240,000
Housing Authority of the County of Santa Barbara.	815 West Ocean Avenue	Lompoc	CA	93436	240,000
The Housing Authority of the County of Los Angeles.	2 Coral Circle	Monterey Park	CA	91755	720,000
Barney Ford Local Resident Council	2024 Clarkson Street	Denver	CO	80205	187,200
North Lincoln Homes Local Resident Council.	1401 Maricopa Street	Denver	CO	80204	187,200
North Lincoln Midrise Local Resident Council.	1425 Mariposa Street	Denver	CO	80204	187,200
Platte Valley—Dispersed East Local Resident Council.	3050 Champa Street	Denver	CO	80205	187,200

Recipient	Address	City	State	Zip code	Amount
Quigg Newton Homes Local Resident Council.	4407 Mariposa Way	Denver	CO	80211	202,317
South Lincoln Homes Local Resident Council.	1000 Navajo Street	Denver	CO	80204	202,317
Sun Valley Homes Local Resident Council.	990 Alcott	Denver	CO	80204	202,317
Thomas Bean Towers Local Resident Council.	2350 Cleveland Place	Denver	CO	80205	187,200
Thomas Connole Local Resident Council.	1710 Williams Street	Denver	CO	80218	187,200
Walsh Manor Local Resident Council	1790 Mosier Place	Denver	CO	80223	187,200
Westridge-Dispersed West Local Resident Council.	3550 West 13th Avenue	Denver	CO	80204	202,317
Westwood Homes Local Resident Council.	3401 West Kentucky	Denver	CO	80219	202,317
Bristol Housing Authority	164 Jerome Street	Bristol	CT	6010	240,000
Housing Authority of the City of Ansonia.	36 Main Street	Ansonia	CT	6401	240,000
Housing Authority of the City of Bridgeport.	150 Highland Avenue	Bridgeport	CT	6604	467,388
Housing Authority of the Town of Greenwich.	249 Milbank Avenue	Greenwich	CT	6830	224,096
Lee County Housing Authority	14170 Warner Circle, Northwest	North Fort Myers	FL	33903	174,000
Northwest Georgia Housing Authority	800 North Fifth Avenue	Rome	GA	30162	367,094
Centers for New Horizons	4150 S. King Drive	Chicago	IL	60653	240,000
Central Advisory Council	243 East 32nd Street	Chicago	IL	60616	720,000
Heartland Housing, Inc	208 S. LaSalle Street, Suite 1818	Chicago	IL	60604	74,500
Housing Authority of Champaign County.	205 West Park Avenue	Champaign	IL	61820	240,000
Macoupin County Housing Authority	P.O. Box 226, 760 Anderson Street	Carlinville	IL	62626	123,930
The Community Builders, Inc	1 North LaSalle Street, Suite 1200 ..	Chicago	IL	60602	240,000
Uhlich Children's Advantage Network	3737 North Mozart Street	Chicago	IL	60618	165,000
Kokomo Housing Authority of the City of Kokomo, IN.	P.O. Box 1207, 210 East Taylor Street.	Kokomo	IN	46903	200,300
New Albany Housing Authority	P.O. Box 11	New Albany	IN	47150	424,362
Bryant Way Resident Council	247 Double Springs Road	Bowling Green	KY	42101	158,091
Gordon Avenue/Summit View Resident Council.	247 Double Springs Road	Bowling Green	KY	42101	128,800
Housing Authority of Corbin	1336 Madison Street	Corbin	KY	40701	142,454
Housing Authority of Floyd County ...	402 John M. Stumbo Drive	Langley	KY	41645	59,697
Housing Authority of Owensboro	2161 East 19th Street	Owensboro	KY	42303	171,750
The Commonwealth Tenants Association.	35 Fidelis Way	Brighton	MA	02135	240,000
Resident Services Incorporated	417 E. Fayette Street, Room 923	Baltimore	MD	21202	720,000
Lewiston Housing Authority	1 College Street	Lewiston	ME	04240	138,600
Housing Authority of the City of Columbia, Missouri.	201 Switzler Street	Columbia	MO	65203	188,655
Natchez Housing Authority	2 Auburn Avenue	Natchez	MS	39213	240,000
Missoula Housing Authority	1235 34th Street	Missoula	MT	59801	240,000
Public Housing Authority of Butte's Resident Council.	220 Curtis Street	Butte	MT	59701	126,090
Burlington Development Corporation	P.O. Box 2380, 133 N. Ireland Street.	Burlington	NC	27217	209,388
Fargo Housing and Redevelopment Authority.	325 Broadway, Box 430	Fargo	ND	58107	190,557
Minot Housing Authority	108 Burdick Expressway East	Minot	ND	58701	160,982
Kearney Housing Agency	2715 Avenue 1	Kearney	NE	68847	67,821
Cerebral Palsy Association of Middlesex County, Inc.	10 Oak Drive	Edison	NJ	08837	240,000
Housing Authority of the City of Camden.	2021 Watson Street, 2nd Floor	Camden	NJ	08105	240,000
Housing Authority of the City of Rahway.	165 East Grand Avenue	Rahway	NJ	07065	238,000
Jersey City Housing Authority	400 U.S. Highway #1	Jersey City	NJ	07306	720,000
Housing Authority of the City of Las Vegas.	340 N 11th Street	Las Vegas	NV	89101	414,000
Buffalo Municipal Housing Authority	300 Perry Street	Buffalo	NY	14204	720,000
Municipal Housing Authority of the City of Utica, New York.	509 2nd Street, Suite 1	Utica	NY	13501	240,000
Niagara Falls Housing Authority	744 Tenth Street	Niagara Falls	NY	14301	199,200
Ocean Bay Community Development Corporation.	424 Beach 54th Street	Arverne	NY	11692	693,300
Rochester Housing Authority	675 West Main Street	Rochester	NY	14611	430,532
Syracuse Housing Authority	516 Burt Street	Syracuse	NY	13202	480,000

Recipient	Address	City	State	Zip code	Amount
The Municipal Housing Authority for the City of Yonkers.	P.O. Box 35, 1511 Central Park Avenue.	Yonkers	NY	10710	480,000
The Village of Spring Valley Housing Authority.	76 Gesner Drive	Village of Spring Valley ..	NY	10977	186,000
Columbiana Metropolitan Housing Authority.	325 Moore Street	East Liverpool	OH	43920	240,000
Jurisdiction-Wide Resident Advisory Board.	2601 Melrose Avenue, Suite 102	Cincinnati	OH	45206	720,000
Lucas Metropolitan Housing Authority	435 Nebraska Avenue	Toledo	OH	43604	605,512
Zanesville Metropolitan Housing Authority.	407 Pershing Road	Zanesville	OH	43701	233,330
Housing Authority of the City of Tulsa.	415 East Independence	Tulsa	OK	74106	308,614
Housing Authority of Clackamas County.	13930 South Gain Street	Oregon City	OR	97045	233,500
Housing Authority of Lincoln County	P.O. Box 1470, 1039 NW Nye Street	Newport	OR	97365	240,000
Housing Authority of Portland	135 SW Ash	Portland	OR	97204	720,000
Allegheny County Housing Authority	625 Stanwix Street, 12th Floor	Pittsburgh	PA	15222	629,640
Da-Network Housing Ministries, Inc ..	236 West Champlost Avenue	Philadelphia	PA	19120	480,000
Housing Authority of the City of York	P.O. Box 1963, S. Broad Street	York	PA	17403	395,974
Philadelphia Housing Authority	12 South 23rd Street, 6th Floor	Philadelphia	PA	19103	718,000
Westmoreland County Housing Authority.	154 South Greengate Road	Greensburg	PA	15601	381,488
Wilkes-Barre Housing Authority	50 Lincoln Plaza	Wilkes-Barre	PA	18702	240,000
The Housing Authority of the City of Providence.	100 Broad Street	Providence	RI	02903	649,896
The Housing Authority of the City of Greenville, SC.	511 Augusta Street	Greenville	SC	29605	216,871
Johnson City Public Housing Authority.	901 Pardee Street	Johnson City	TN	37601	237,980
Housing Authority of the City of El Paso.	5300 Paisano Drive	El Paso	TX	79905	545,268
Chesapeake Redevelopment and Housing Authority.	1468 South Military Highway	Chesapeake	VA	23320	240,000
Danville Redevelopment and Housing Authority.	135 Jones Crossing	Danville	VA	24541	190,500
Pleasant View Tenant Association, Incorporated.	101 Pleasant View Avenue	Danville	VA	24541	190,500
Burlington Housing Authority	65 Main Street	Burlington	VT	05401	216,000
Housing Authority of the City of Bremerton.	110 Russell Road	Bremerton	WA	98312	240,000
Housing Authority of the City of Tacoma.	902 South L Street	Tacoma	WA	98405	240,000
S.E.T. Ministry, Inc.	2977 North 50th Street	Milwaukee	WI	53210	540,651
Superior Housing Authority	1219 North Eighth Street	Superior	WI	54880	240,000
Huntington WV Housing Authority	300 Seventh Avenue West	Huntington	WV	25701	161,000

[FR Doc. E9-11097 Filed 5-12-09; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5200-FA-26]

Announcement of Funding Awards for the Section 202 Supportive Housing for the Elderly Program Fiscal Year 2008

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions

made by the Department in a competition for funding under the Super Notice of Funding Availability (SuperNOFA) for the Section 202 Supportive Housing for the Elderly Program. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Mr. Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, 451 7th Street, SW., Washington, DC 20410; telephone (202) 708-3000 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1-800-877-8339. For general information on this and other HUD programs, visit the HUD Web site at <http://www.hud.gov>.

SUPPLEMENTARY INFORMATION: The Section 202 Supportive Housing for the Elderly Program is authorized by Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625; approved November 28, 1990); the Housing and Community Development Act of 1992 (Pub. L. 102-550; approved October 28, 1992); the Recessions Act (Pub. L. 104-19; enacted on July 27, 1995); the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569; approved December 27, 2000); and the Consolidated Appropriations Act, 2008 (Pub. L. 110-161; approved December 26, 2007).

The competition was announced in the SuperNOFA published in the **Federal Register** on May 12, 2008, 73

FR 27032. Applications were rated and selected for funding on the basis of selection criteria contained in that Notice.

(The Catalog of Federal Domestic Assistance number for this program is 14.157.)

The Section 202 program is the Department's primary program for providing affordable housing for the elderly that allows them to live

independently with supportive services. Under this program, HUD provides funds to private non-profit organizations to develop supportive housing for the elderly. Funds are also provided to subsidize the expenses to operate the housing projects.

A total of \$525,876,000 was awarded to 101 projects for 3,774 units nationwide. In accordance with section 102(a)(4)(C) of the Department of

Housing and Urban Development Reform Act of 1989 (103 Stat. 1987. 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A of this document.

Dated: May 1, 2009.

Brian Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

FY 2008 SELECTIONS SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY

ALABAMA

Daphne, AL, AHEPA National Housing Corp., Capital Advance: \$5,002,100, Three-year rental subsidy: \$365,700, Number of units: 39.

Dothan, AL, B'nai Brith Housing, Inc., Co-Sponsor: Wiregrass Foundation, Capital Advance: \$3,824,700, Three-year rental subsidy: \$365,700, Number of units: 39.

ALASKA

Haines, AK, Haines Assisted Living, Inc., Capital Advance: \$1,002,900, Three-year rental subsidy: \$102,000, Number of units: 5.

Togiak, AK, Marrulut Enitt Assisted Living, Capital Advance: \$1,002,900, Three-year rental subsidy: \$102,000, Number of units: 5.

ARIZONA

Phoenix, AZ, National Farm Workers Service Center, Inc., Capital Advance: \$5,650,100, Three-year rental subsidy: \$447,900, Number of units: 46.

Phoenix, AZ, Friendship Retirement Corporation, Capital Advance: \$4,803,200, Three-year rental subsidy: \$447,900, Number of units: 46.

ARKANSAS

Bono, AR, White River Reg Hsg Dev Corp, Capital Advance: \$1,168,400, Three-year rental subsidy: \$104,700, Number of units: 12.

Huntsville, AR, Northwest Regional Housing Dev Corp, Capital Advance: \$1,947,400, Three-year rental subsidy: \$174,300, Number of units: 20.

CALIFORNIA

Bakersfield, CA, National Farm Workers Service Center, Inc., Capital Advance: \$7,460,100, Three-year rental subsidy: \$809,400, Number of units: 49.

Fremont, CA, Eden Housing, Inc., Capital Advance: \$13,371,700, Three-year rental subsidy: \$1,557,900, Number of units: 88.

Santa Rosa, CA, Petaluma Ecumenical Properties, Capital Advance: \$5,792,700, Three-year rental subsidy: \$662,700, Number of units: 38.

Clovis, CA, Southern California Presbyterian Homes, Capital Advance: \$8,425,400, Three-year rental subsidy: \$1,056,600, Number of units: 60.

Rialto, CA, TELACU, Capital Advance: \$11,401,200, Three-year rental subsidy: \$1,247,700, Number of units: 75.

CONNECTICUT

East Lyme, CT, AHEPA National Housing Corporation, Capital Advance: \$7,882,100, Three-year rental subsidy: \$742,800, Number of units: 52.

Newington, CT, New Samaritan Corporation, Capital Advance: \$4,636,000, Three-year rental subsidy: \$457,200.

Franklin, CT, The ACCESS Agency, Inc., Capital Advance: \$4,092,600, Three-year rental subsidy: \$385,800, Number of units: 27.

FLORIDA

Palmetto, FL, Diocese of Venice, Capital Advance: \$8,800,900, Three-year rental subsidy: \$597,600, Number of units: 68.

Tampa, FL, Diocese of St. Petersburg, Co-Sponsor: Catholic Charities, Capital Advance: \$8,761,300, Three-year rental subsidy: \$597,600, Number of units: 68.

Pensacola, FL, Presbyterian Retirement Communities, Capital Advance: \$5,407,300, Three-year rental subsidy: \$496,800, Number of units: 53.

GEORGIA

Atlanta, GA, South Atlantic Conference, Capital Advance: \$5,211,100, Three-year rental subsidy: \$469,800, Number of units: 50.

Lithonia, GA, Retirement Housing Foundation, Capital Advance: \$5,626,200, Three-year rental subsidy: \$508,200, Number of units: 54.

Harlem, GA, Georgia Rehabilitation Institute, Inc., Capital Advance: \$1,607,300, Three-year rental subsidy: \$144,000, Number of Units: 16.

FY 2008 SELECTIONS SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

IDAHO

Coeur d'Alene, ID, St. Vincent de Paul Salvage Bureau, Capital Advance: \$3,471,500, Three-year rental subsidy: \$369,000, Number of units: 37.

ILLINOIS

Chicago, IL, The Community Builders, Capital Advance: \$9,127,500, Three-year rental subsidy: \$689,100, Number of units: 60.

Chicago, IL, Elderly Hsg Dev & Operations Corp., Capital Advance: \$4,698,900, Three-year rental subsidy: \$362,100, Number of units: 31.

Rockford, IL, First Assembly of God Church, Capital Advance: \$2,798,400, Three-year rental subsidy: \$233,700, Number of units: 20.

Chicago, IL, New Pisgah Missionary Baptist Church, Capital Advance: \$9,127,500, Three-year rental subsidy: \$689,100, Number of units: 60.

INDIANA

Churubusco, IN, Blue River, Inc., Capital Advance: \$2,267,800, Three-year rental subsidy: \$238,500, Number of units: 22.

Gary, IN, Volunteers of America National Services, Capital Advance: \$5,464,200, Three-year rental subsidy: \$411,600, Number of units: 39.

LaPaz, IN, Garden Court, Inc., Capital Advance: \$1,513,400, Three-year rental subsidy: \$151,800, Number of units: 14.

KANSAS

Wichita, KS, Mennonite Housing Rehabilitation Services, Capital Advance: \$5,118,700, Three-year rental subsidy: \$475,200, Number of units: 44.

KENTUCKY

Bowling Green, KY, Live the Dream Development, Inc., Capital Advance: \$3,811,300, Three-year rental subsidy: \$366,300, Number of units: 36.

Lexington, KY, Fayette County Local Development Corporation, Capital Advance: \$2,326,100, Three-year rental subsidy: \$213,900, Number of units: 21.

Corbin, KY, KCEOC Community Action Partnership, Capital Advance: \$1,772,300, Three-year rental subsidy: \$162,900, Number of units: 16.

Louisville, KY, Douglass Blvd. Christian Church, Capital Advance: \$1,218,400, Three-year rental subsidy: \$111,900, Number of units: 11.

LOUISIANA

Lake Charles, LA, Calcasieu Council on Aging, Co-Sponsor: Greater Southwest Louisiana CHDO, Inc., Capital Advance: \$3,786,400, Three-year rental subsidy: \$372,600, Number of units: 42.

New Iberia, LA, Diocese of Lafayette, Capital Advance: \$1,092,700, Three-year rental subsidy: \$90,900, Number of units: 11.

MARYLAND

Baltimore, MD, Associated Catholic Charities, Capital Advance: \$6,065,500, Three-year rental subsidy: \$601,200, Number of units: 51.

Silver Spring, MD, Victory Housing, Inc., Capital Advance: \$6,484,700, Three-year rental subsidy: \$576,300, Number of units: 49.

Randallstown, MD, CSI Support & Development Services, Capital Advance: \$6,091,200, Three-year rental subsidy: \$589,500, Number of units: 51.

MASSACHUSETTS

Berlin, MA, Montachusett Home Care Corporation, Capital Advance: \$5,627,000, Three-year rental subsidy: \$591,300, Number of units: 40.

Roxbury, MA, Nuestra Comunidad, Co-Sponsor: New Communities Services, Inc., Capital Advance: \$5,305,300, Three-year rental subsidy: \$530,700, Number of units: 35.

W. Roxbury, MA, Community Builders, Capital Advance: \$6,063,200, Three-year rental subsidy: \$606,600, Number of units: 40.

W. Roxbury, MA, Community Builders, Capital Advance: \$6,063,200, Three-year rental subsidy: \$606,600, Number of units: 40.

W. Roxbury, MA, Community Builders, Capital Advance: \$6,063,200, Three-year rental subsidy: \$606,600, Number of units: 40.

MICHIGAN

Albion, MI, Volunteers of America, Capital Advance: \$3,475,600, Three-year rental subsidy: \$373,800, Number of units: 38.

Clinton Township, MI, Volunteers of America, Capital Advance: \$8,415,600, Three-year rental subsidy: \$789,600, Number of units: 66.

Kalamazoo, MI, Presbyterian Villages of Michigan, Capital Advance: \$3,475,600, Three-year rental subsidy: \$373,800, Number of units: 38.

FY 2008 SELECTIONS SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

MINNESOTA

Maplewood, MN, Common Bond Communities, Capital Advance: \$5,081,800, Three-year rental subsidy: \$471,600, Number of units: 40.	St. Paul, MN, Episcopal Corporation for the Elderly, Capital Advance: \$6,378,400, Three-year rental subsidy: \$577,800, Number of units: 50.
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MISSISSIPPI

Wiggins, MS, VOA Southeast, Inc., Capital Advance: \$1,925,300, Three-year rental subsidy: \$183,600, Number of units: 20.	
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MISSOURI

Dardenne Prairie, MO, Cardinal Ritter Senior Services, Capital Advance: \$4,896,000, Three-year rental subsidy: \$442,500, Number of units: 38.	
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MONTANA

Kalispell, MT, Accessible Space, Inc., Capital Advance: \$3,519,000, Three-year rental subsidy: \$219,000, Number of units: 23.	
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NEBRASKA

Papillion, NE, Immanuel Health Systems, Capital Advance: \$2,240,000, Three-year rental subsidy: \$199,200, Number of units: 20.	
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NEVADA

Las Vegas, NV, Nevada H.A.N.D., Inc., Capital Advance: \$6,996,000, Three-year rental subsidy: \$570,900, Number of units: 50.	
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NEW HAMPSHIRE

Manchester, NH, SNHS Management Corporation, Capital Advance: \$5,153,700, Three-year rental subsidy: \$392,100, Number of units: 34.	Newbury, NH, CAP, Belknap-Merrimack Counties, Inc., Capital Advance: \$2,576,800, Three-year rental subsidy: \$196,200, Number of units: 17.
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NEW JERSEY

Middle Township, NJ, The Diocesan Housing Ser Corp, Capital Advance: \$11,249,600, Three-year rental subsidy: \$1,143,600, Number of units: 74.	
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NEW YORK

Amherst, NY, Menorah Campus, Inc., Capital Advance: \$6,471,300, Three-year rental subsidy: \$604,200, Number of units: 50.	Clarendon, NY, Urban League of Rochester Economic Dev Corp., Capital Advance: \$1,237,000, Three-year rental subsidy: \$120,900, Number of units: 10.
Perry, NY, Wyoming County Community Action, Inc., Capital Advance: \$2,459,000, Three-year rental subsidy: \$229,800, Number of units: 19.	Queens, NY, Allen A.M.E. Neighborhood Preservation and Dev Corp., Capital Advance: \$10,037,000, Three-year rental subsidy: \$1,527,300, Number of units: 66.
Staten Island, NY, Sisters of Charity of St. Vincent de Paul, Capital Advance: \$12,159,100, Three-year rental subsidy: \$1,856,400, Number of units: 80.	West Seneca, NY, People, Inc., Capital Advance: \$6,110,900, Three-year rental subsidy: \$555,900, Number of units: 47.

NORTH CAROLINA

Durham, NC, Volunteers of America National Services, Capital Advance: \$6,858,800, Three-year rental subsidy: \$478,200, Number of units: 48.	Volunteers of America National Services, Capital Advance: \$6,858,800, Three-year rental subsidy: \$478,200, Number of units: 48.
Lexington, NC, North Carolina Housing Foundation, Inc., Capital Advance: \$2,064,500, Three-year rental subsidy: \$152,700, Number of units: ..	Robbins, NC, St. Joseph's of the Pines, Capital Advance: \$2,918,600, Three-year rental subsidy: \$203,700, Number of units: 21.

OHIO

Albany, OH, Housing Service Alliance, Capital Advance: \$1,303,800, Three-year rental subsidy: \$129,300, Number of units: 12.	Marion, OH, Lutheran Social Services of Central Ohio, Capital Advance: \$1,303,800, Three-year rental subsidy: \$129,300, Number of units: 12.
Cincinnati, OH, Volunteers of America National Services, Co-Sponsor: Volunteers of America Ohio River Valley, Capital Advance: \$4,700,800, Three-year rental subsidy: \$447,300, Number of units: 42.	New Holland, OH, Community Action Comm. of Fayette Co., Capital Advance: \$1,303,800, Three-year rental subsidy: \$129,300, Number of units: 12.

FY 2008 SELECTIONS SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

Cleveland Heights, OH, Benjamin Rose Institute, Capital Advance: \$4,323,500, Three-year rental subsidy: \$437,700, Number of units: 36.	West Union, OH, Adams-Brown Counties Economic Opportunity, Capital Advance: \$543,200, Three-year rental subsidy: \$54,600, Number of units: 5.
Columbus, OH, Columbus Housing Partnership, Inc., Capital Advance: \$3,815,700, Three-year rental subsidy: \$377,100, Number of units: 35.	
OKLAHOMA	
Atoka, OK, Choctaw Hope Development Corporation, Capital Advance: \$1,151,700, Three-year rental subsidy: \$115,500, Number of units: 13.	Muskogee, OK, Greater Muskogee Community Foundation, Capital Advance: \$1,151,700, Three-year rental subsidy: \$125,100, Number of units: 13.
OREGON	
Wilsonville, OR, Northwest Housing Alternatives, Inc., Capital Advance: \$5,535,700, Three-year rental subsidy: \$463,800, Number of units: 45.	
PENNSYLVANIA	
Aliquippa, PA, Community Action Partnership of Mercer Co., Capital Advance: \$3,017,000, Three-year rental subsidy: \$275,100, Number of units: 25.	Pleasant Gap, PA, Allegheny Luth Soc Mnstr, Capital Advance: \$2,028,200, Three-year rental subsidy: \$220,500, Number of units: 14.
Aliquippa, PA, Community Action Partnership of Mercer Co., Capital Advance: \$4,827,200, Three-year rental subsidy: \$439,800, Number of units: 40.	Erie, PA, Community Action Partnership of Mercer Co., Capital Advance: \$3,258,300, Three-year rental subsidy: \$297,000, Number of units: 27.
Erie, PA, HANDS, Inc., Capital Advance: \$5,430,600, Three-year rental subsidy: \$495,000, Number of units: 45.	Mt. Penn, PA, Cath Senior Hsg & Health Care Ser Inc., Capital Advance: \$5,305,300, Three-year rental subsidy: \$551,400, Number of units: 35.
RHODE ISLAND	
Coventry, RI, Coventry Housing Associates Corp., Co-Sponsor: Coastal Housing Corporation, Capital Advance: \$4,925,800, Three-year rental subsidy: \$480,300, Number of units: 35.	Warwick, RI, The Saint Elizabeth Community, Capital Advance: \$5,153,700, Three-year rental subsidy: \$480,300, Number of units: .
SOUTH CAROLINA	
Branchville, SC, Orangeburg County Council on Aging, Capital Advance: \$1,315,000, Three-year rental subsidy: \$93,900, Number of units: 10.	Greer, SC, Upstate Homeless Coalition of SC, Capital Advance: \$4,533,500, Three-year rental subsidy: \$337,500, Number of units: 36.
TENNESSEE	
Greeneville, TN, Douglas Cherokee Economic Authority, Capital Advance: \$507,200, Three-year rental subsidy: \$47,100, Number of units: 5.	Loretto, TN, Loretto Lion's Club, Capital Advance: \$1,136,700, Three-year rental subsidy: \$108,300, Number of units: 12.
Memphis, TN, Charis Acres, Inc., Capital Advance: \$2,858,500, Three-year rental subsidy: \$278,100, Number of units: .	
TEXAS	
El Paso, TX, Ev Luth Gd Samar Soc., Capital Advance: \$3,731,200, Three-year rental subsidy: \$392,400, Number of units: 40.	Houston, TX, Avenue Community Development Corporation, Capital Advance: \$4,742,100, Three-year rental subsidy: \$485,100, Number of units: 49.
Plano, TX, Plano Community Home Sponsor, Inc., Capital Advance: \$7,256,400, Three-year rental subsidy: \$732,600, Number of units: 73.	San Antonio, TX, Merced Housing Texas, Capital Advance: \$3,814,700, Three-year rental subsidy: \$392,100, Number of units: 42.
Tyler, TX, The Salvation Army, A Georgia Corp., Capital Advance: \$6,904,700, Three-year rental subsidy: \$722,400, Number of units: 72.	
UTAH	
Taylorsville, UT, Utah Non Profit Housing Corporation, Capital Advance: \$7,859,700, Three-year rental subsidy: \$566,700, Number of units: 61.	
VIRGINIA	
Christiansburg, VA, Metropolitan Housing and CDC, Inc., Capital Advance: \$5,028,300, Three-year rental subsidy: \$506,100, Number of units: 48.	

FY 2008 SELECTIONS SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

WASHINGTON

Spokane Valley, WA, Spokane United Methodist Homes, Capital Advance: \$4,255,400, Three-year rental subsidy: \$410,100, Number of units: 38.	Tacoma, WA, American Baptist Homes of the West, Capital Advance: \$7,661,400, Three-year rental subsidy: \$658,800, Number of units: 55.
Tacoma, WA, Intercommunity Mercy Housing, Capital Advance: \$8,216,400, Three-year rental subsidy: \$707,700, Number of units: 59.	

WISCONSIN

Hudson, WI, Accessible Space, Inc., Capital Advance: \$4,006,100, Three-year rental subsidy: \$342,600, Number of units: 32.
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[FR Doc. E9-11098 Filed 5-12-09; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5100-FA-05]

Announcement of Funding Awards for the Section 811 Supportive Housing for the Elderly Program Fiscal Year 2007

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Super Notice of Funding Availability (SuperNOFA) for the Section 811 Supportive Housing for Persons with Disabilities Program. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Mr. Willie Spearmon, Director, Office of

Housing Assistance and Grant Administration, 451 7th Street, SW., Washington, DC 20410; telephone (202) 708-3000 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1-800-877-8339. For general information on this and other HUD programs, visit the HUD Web site at <http://www.hud.gov>.

SUPPLEMENTARY INFORMATION: The Section 811 Supportive Housing for Persons with Disabilities Program is authorized by Section 811 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625; approved November 28, 1990); the Housing and Community Development Act of 1992 (Pub. L. 102-550; approved October 28, 1992); the Recessions Act (Pub. L. 104-19; enacted on July 27, 1995); the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569; approved December 27, 2000); and the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110-5; approved February 15, 2007).

The competition was announced in the SuperNOFA published in the **Federal Register** on March 13, 2007, 72 FR 11434. Applications were rated and selected for funding on the basis of

selection criteria contained in that Notice.

The Catalog of Federal Domestic Assistance number for this program is 14.181.

The Section 811 program is the Department's primary program for providing affordable housing for persons with disabilities that allows them to live independently with supportive services. Under this program, HUD provides funds to non-profit organizations to develop supportive housing for person with disabilities. Funds are also provided to subsidize the expenses to operate the housing projects.

A total of \$124,797,825 was awarded to 100 projects for 1,009 units nationwide. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A of this document.

Dated: May 1, 2009.

Brian Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

FY 2007 SELECTIONS, SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES PROGRAM

ALABAMA

Decatur, AL, Ability Plus, Capital Advance: \$705,800, Three-year rental subsidy: \$72,300, Number of units: 8.	Dothan, AL, Wiregrass Rehabilitation Center, Inc., Capital Advance: \$776,500, Three-year rental subsidy: \$63,300, Number of units: 8.
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ALASKA

Juneau, AK, REACH, Inc., Capital Advance: \$713,700, Three-year rental subsidy: \$78,600, Number of units: 4.	Ketchikan, AK, Community Connections, Capital Advance: \$1,588,900, Three-year rental subsidy: 156,900, Number of units: 8.
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ARKANSAS

Forrest City, AR, St. Francis Area Development Center, Inc., Capital Advance: \$881,400, Three-year rental subsidy: \$75,600, Number of units: 10.	Haskell, AR, Birch Tree Communities, Capital Advance: \$881,400, Three-year rental subsidy: \$84,000, Number of units: 10.
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FY 2007 SELECTIONS, SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES PROGRAM—Continued

CALIFORNIA

Chico, CA, Northern Valley Catholic Soc Svcs, Inc., Capital Advance: \$1,329,500, Three-year rental subsidy: \$110,100, Number of units: 10.	Redwood City, CA, Mental Health Association of San Mateo County, Capital Advance: \$1,792,800, Three-year rental subsidy: \$242,700, Number of units: 15.
Escondido, CA, T.E.R.I., Inc., Capital Advance: \$582,900, Three-year rental subsidy: \$86,400, Number of units: 6.	San Francisco, CA, BHNC, Co-Sponsor: The Rector Wardens Vestry of St. Peter's Epis Ch, Capital Advance: \$2,679,400, Three-year rental subsidy: \$329,400, Number of units: 20.
Manteca, CA, Satellite Housing, Inc., Capital Advance: \$1,329,500, Three-year rental subsidy: \$110,100, Number of units: 10.	Ventura, CA, Cabrillo Economic Development Corp., Capital Advance: \$3,599,100, Three-year rental subsidy: \$372,900, Number of units: 25.

COLORADO

Longmont, CO, Dev. Disabilities Ctr. dba Imagine, Capital Advance: \$582,900, Three-year rental subsidy: \$62,400, Number of units: 6.

CONNECTICUT

New Haven, CT, Continuum of Care, Inc., Capital Advance: \$1,645,200, Three-year rental subsidy: \$137,700, Number of units: 10.	New Haven, CT, Leeway, Inc., Capital Advance: \$1,427,300, Three-year rental subsidy: \$137,700, Number of units: 10.
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FLORIDA

LaBelle, FL, Goodwill Industries of SW FL Inc., Capital Advance: \$1,932,100, Three-year rental subsidy: \$134,400, Number of units: 14.	Pensacola, FL, VOA of Florida Inc., Capital Advance: \$1,856,000, Three-year rental subsidy: \$116,400, Number of units: 14.
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GEORGIA

Austell, GA, ARC Cobb, Inc., Capital Advance: \$366,800, Three-year rental subsidy: \$37,200, Number of units: 4.	Cairo, GA, Goodwill Industries-Big Bend, Inc., Capital Advance: \$1,507,800, Three-year rental subsidy: \$129,600, Number of units: 15.
Mableton, GA, ARC Cobb, Inc., Capital Advance: \$366,800, Three-year rental subsidy: \$37,200, Number of units: 4.	Trenton, GA, VOA Southeast Inc., Capital Advance: \$1,207,300, Three-year rental subsidy: \$111,000, Number of units: 13.

HAWAII

Aiea, HI, Mental Health Kokua, Capital Advance: \$764,100, Three-year rental subsidy: \$81,900, Number of units: 6.

IDAHO

Coeur d'Alene, ID, St. Vincent de Paul Salvage Bureau, Capital Advance: \$1,276,500, Three-year rental subsidy: \$138,300, Number of units: 15.

ILLINOIS

Crest Hill, IL, Cornerstone Services, Inc., Capital Advance: \$987,100, Three-year rental subsidy: \$66,900, Number of units: 6.	Joliet, IL, Cornerstone Services, Inc., Capital Advance: \$582,900, Three-year rental subsidy: \$66,900, Number of units: 6.
E Peoria, IL, Tazewell Co Resource Center, Inc., Capital Advance: \$508,900, Three-year rental subsidy: \$66,900, Number of units: 6.	Pekin, IL, Tazewell Mental Health Center, Inc., Capital Advance: \$1,715,700, Three-year rental subsidy: \$155,700, Number of units: 15.

INDIANA

Fort Wayne, IN, Park Center, Inc., Capital Advance: \$970,600, Three-year rental subsidy: \$104,400, Number of units: 10.

Merrillville, IN, Southlake Center for Mental Health, Capital Advance: \$1,595,700, Three-year rental subsidy: \$146,100, Number of units: 15.

IOWA

Osceola, IA, Mosaic, Capital Advance: \$1,424,500, Three-year rental subsidy: \$85,800, Number of units: 9.

KANSAS

Garden City, KS, Area Mental Health Center, Capital Advance: \$1,523,900, Three-year rental subsidy: \$131,400, Number of units: 15.	Winfield, KS, Mosaic, Capital Advance: \$884,300, Three-year rental subsidy: \$75,300, Number of units: 8.
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FY 2007 SELECTIONS, SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES PROGRAM—Continued

KENTUCKY

LaGrange, KY, Cedar Lake Lodge, Inc., Capital Advance: \$1,083,900, Three-year rental subsidy: \$88,500, Number of units: 9.

LOUISIANA

Bastrop, LA, Morehouse CHDO, Co-Sponsor: Morehouse Council on Aging, Inc., Capital Advance: \$1,316,400, Three-year rental subsidy: \$126,600, Number of units: 15.

Chataignier, LA, Gabriel Villa, Inc., Capital Advance: \$1,435,500, Three-year rental subsidy: \$140,100, Number of units: 16.

Eunice, LA, Diocese of Lafayette, Capital Advance: \$1,454,000, Three-year rental subsidy: \$131,400, Number of units: 16.

Monroe, LA, Monroe Area Guidance Center, Capital Advance: \$537,200, Three-year rental subsidy: \$45,300, Number of units: 6.

MAINE

Lewiston, ME, John F. Murphy Homes, Inc., Capital Advance: \$818,500, Three-year rental subsidy: \$57,300, Number of units: 6.

MARYLAND

Baltimore, MD, Aids Interfaith Residential Services, Inc., Co-Sponsor: Empire Homes of Maryland, Inc., Capital Advance: \$618,700, Three-year rental subsidy: \$57,000, Number of units: 6.

Elkton, MD, Upper Bay Counseling and Support Services, Capital Advance: \$1,394,500, Three-year rental subsidy: \$113,700, Number of units: 10.

Lanham, MD, Vesta, Inc., Capital Advance: \$945,300, Three-year rental subsidy: \$115,800, Number of units: 10.

Frederick, MD, Way Station, Inc., Capital Advance: \$748,200, Three-year rental subsidy: \$68,400, Number of units: 6.

Germantown, MD, Montgomery County Coalition, Capital Advance: \$1,180,500, Three-year rental subsidy: \$115,800, Number of units: 10.

Sykesville, MD, Prologue Inc., Capital Advance: \$774,500, Three-year rental subsidy: \$79,500, Number of units: 7.

MASSACHUSETTS

Chicopee, MA, Hawthorne Services, Inc., Capital Advance: \$551,800, Three-year rental subsidy: \$87,900, Number of units: 6.

Groveland, MA, American Training, Inc., Capital Advance: \$549,200, Three-year rental subsidy: \$73,200, Number of units: 5.

MICHIGAN

Detroit, MI, Volunteers of America Michigan Inc., Capital Advance: \$1,138,500, Three-year rental subsidy: \$117,000, Number of units: 10.

Portage, MI, Lift Foundation, Capital Advance: \$846,800, Three-year rental subsidy: \$97,500, Number of units: 10.

Southfield, MI, Community Housing Network, Inc., Capital Advance: \$847,525, Three-year rental subsidy: \$93,600, Number of units: 7.

MINNESOTA

Owatonna, MN, Accessible Space, Capital Advance: \$1,618,200, Three-year rental subsidy: \$159,000, Number of units: 14.

NEBRASKA

Beatrice, NE, Mosaic, Capital Advance: \$1,130,600, Three-year rental subsidy: \$96,000, Number of units: 10.

NEVADA

Las Vegas, NV, Accessible Space, Inc., Capital Advance: \$3,116,100, Three-year rental subsidy: \$220,200, Number of units: 21.

NEW JERSEY

Egg Harbor Twp, NJ, CARING, Inc., Co-Sponsor: CARING House Projects, Inc., Capital Advance: \$515,500, Three-year rental subsidy: \$60,900, Number of units: 4.

Egg Harbor Twp, NJ, CARING, Inc., Co-Sponsor: CARING House Projects, Inc., Capital Advance: \$1,031,000, Three-year rental subsidy: \$121,500, Number of units: 8.

Warren, NJ, Cerebral Palsy of New Jersey, Inc., Capital Advance: \$582,900, Three-year rental subsidy: \$115,800, Number of units: 6.

Hammononton, NJ, ARC of Atlantic Co., Inc., Capital Advance: \$1,091,300, Three-year rental subsidy: \$121,500, Number of units: 8.

Mullica, NJ, Collaborative Supp Progs. of NJ, Co-Sponsor: Comm Enterprises Corp, Inc., Capital Advance: \$493,900, Three-year rental subsidy: \$60,900, Number of units: 4.

NEW MEXICO

Albuquerque, NM, New Life Homes, Inc., Capital Advance: \$937,000, Three-year rental subsidy: \$86,400, Number of units: 10.

Tucumcari, NM, Eastern Plains Housing Dev Corp., Capital Advance: \$671,300, Three-year rental subsidy: \$76,800, Number of units: 8.

FY 2007 SELECTIONS, SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES PROGRAM—Continued

NEW YORK

Fredonia, NY, Aspire of WNY, Capital Advance: \$1,383,400, Three-year rental subsidy: \$139,800, Number of units: 12.	Shirley, NY, Options for Community Living, Inc., Capital Advance: \$1,860,100, Three-year rental subsidy: \$267,600, Number of units: 12.
Patterson, NY, Putnam County Chapter, NYSARC, Inc., Capital Advance: \$582,900, Three-year rental subsidy: \$133,800, Number of units: 6.	Shirley, NY, Federation of Organizations, Capital Advance: \$930,000, Three-year rental subsidy: \$133,800, Number of units: 6.

NORTH CAROLINA

Burlington, NC, The ARC of North Carolina Inc., Capital Advance: \$736,600, Three-year rental subsidy: \$59,100, Number of units: 6.	Fayetteville, NC, Abilities of Florida, Inc., Capital Advance: \$1,473,300, Three-year rental subsidy: \$117,900, Number of units: 12.
Charlotte, NC, UMAR-WNC Inc., Capital Advance: \$1,119,100, Three-year rental subsidy: \$88,500, Number of units: 9.	

OHIO

Bowling Green, OH, Wood Lane Residential Properties, Inc., Capital Advance: \$1,635,600, Three-year rental subsidy: \$164,100, Number of units: 15.	Columbus, OH, Creative Housing, Inc., Capital Advance: \$981,100, Three-year rental subsidy: \$103,800, Number of units: 10.
Brunswick, OH, Medina Creative Housing, Inc., Capital Advance: \$860,500, Three-year rental subsidy: \$93,900, Number of units: 8.	Cuyahoga Falls, OH, Ohio Multi-County Development Corporation, Capital Advance: \$1,613,400, Three-year rental subsidy: \$164,100, Number of units: 15.
Hamilton, OH, Transitional Living, Inc., Capital Advance: \$991,600, Three-year rental subsidy: \$105,300, Number of units: 10.	Lakewood, OH, Welcome House, Inc., Capital Advance: \$1,075,600, Three-year rental subsidy: \$117,300, Number of units: 10.
Medina, OH, Medina Creative Housing, Inc., Capital Advance: \$949,100, Three-year rental subsidy: \$93,900, Number of units: 12.	Wooster, OH, Ohio Multi-County Development, Corporation, Capital Advance: \$1,398,300, Three-year rental subsidy: \$140,700, Number of units: 15.

OKLAHOMA

Oklahoma City, OK, Neighborhood Services Organization, Inc., Capital Advance: \$1,278,100, Three-year rental subsidy: \$117,600, Number of units: 14.
Shawnee, OK, South Central Industries, Inc., Capital Advance: \$780,300, Three-year rental subsidy: \$108,600, Number of units: 12.

OREGON

Wilsonville, OR, Northwest Housing Alternatives, Inc., Capital Advance: \$1,704,500, Three-year rental subsidy: \$152,400, Number of units: 15.

PENNSYLVANIA

Greensburg, PA, Passavant Memorial HO, Capital Advance: \$836,700, Three-year rental subsidy: \$84,900, Number of units: 8.	Pittsburgh, PA, ACTION HSG Inc., Co-Sponsor: Jewish Res SER, Inc., Capital Advance: \$1,114,400, Three-year rental subsidy: \$106,200, Number of units: 10.
Philadelphia, PA, Liberty Resources, Inc., Capital Advance: \$713,600, Three-year rental subsidy: \$76,500, Number of units: 5.	Philadelphia, PA, Liberty Resources, Inc., Capital Advance: \$1,500,600, Three-year rental subsidy: \$168,000, Number of units: 11.
Philadelphia, PA, Liberty Resources, Inc., Capital Advance: \$1,500,600, Three-year rental subsidy: \$168,000, Number of units: 11.	

RHODE ISLAND

Cranston, RI, Spurwink/RI, Capital Advance: \$1,364,200, Three-year rental subsidy: \$136,200, Number of units: 10.	Warwick, RI, House of Hope Comm. Dev. Corp., Capital Advance: \$766,400, Three-year rental subsidy: \$68,100, Number of units: 5.
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SOUTH CAROLINA

Anderson, SC, Upstate Homeless Coalition of S.C., Capital Advance: \$1,674,800, Three-year rental subsidy: \$126,600, Number of units: 14.	Moore, SC, Spartanburg Leased Housing Corporation, Capital Advance: \$1,794,400, Three-year rental subsidy: \$126,000, Number of units: 15.
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SOUTH DAKOTA

Watertown, SD, Accessible Space, Inc., Capital Advance: \$1,934,700, Three-year rental subsidy: \$157,500, Number of units: 19.

FY 2007 SELECTIONS, SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES PROGRAM—Continued

TENNESSEE

Knoxville, TN, Breakthrough Corporation, Capital Advance: \$1,033,900, Three-year rental subsidy: \$81,300, Number of units: 9.	Smithville, TN, Prospect, Inc., Capital Advance: \$689,200, Three-year rental subsidy: \$52,200, Number of units: 6.
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TEXAS

Baytown, TX, Multi-family Mission Ministries, INC, Capital Advance: \$1,197,300, Three-year rental subsidy: \$136,500, Number of units: 14.	Corpus Christi, TX, Accessible Housing Resources, Inc., Capital Advance: \$534,000, Three-year rental subsidy: \$45,000, Number of units: 6.
Conroe, TX, Tri-County MHMR, Capital Advance: \$1,335,700, Three-year rental subsidy: \$136,500, Number of units: 15.	
Conroe, TX, Tri-County MHMR, Capital Advance: \$1,335,700, Three-year rental subsidy: \$136,500, Number of units: 15.	

VIRGINIA

Fredericksburg, VA, Rappahannock Comm. Ser., Inc., Capital Advance: \$432,700, Three-year rental subsidy: \$61,200, Number of units: 6.	Orange County, VA, Rappahannock-Rapidan Comm Ser Bd, Capital Advance: \$432,700, Three-year rental subsidy: \$61,200, Number of units: 6.
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WASHINGTON

Colville, WA, Spokane Mental Health, Capital Advance: \$1,499,900, Three-year rental subsidy: \$149,700, Number of units: 15.	Forks, WA, Serenity House, Capital Advance: \$1,656,700, Three-year rental subsidy: \$169,200, Number of units: 14.
Leavenworth, WA, Upper Valley MEND, Capital Advance: \$409,800, Three-year rental subsidy: \$53,400, Number of units: 5.	

WEST VIRGINIA

Hinton, WV, Human Resource Dev. and Employ., Capital Advance: \$1,180,500, Three-year rental subsidy: \$109,500, Number of units: 10.

[FR Doc. E9-11095 Filed 5-12-09; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5200-FA-25]

Announcement of Funding Awards for the Section 811 Supportive Housing for the Elderly Program Fiscal Year 2008

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Super Notice of Funding Availability (SuperNOFA) for the Section 811 Supportive Housing for Persons with Disabilities Program. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Mr. Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, 451 7th Street, SW., Washington, DC 20410; telephone (202) 708-3000 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1-800-877-8339. For general information on this and other HUD programs, visit the HUD Web site at <http://www.hud.gov>.

SUPPLEMENTARY INFORMATION: The Section 811 Supportive Housing for Persons with Disabilities Program is authorized by Section 811 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625; approved November 28, 1990); the Housing and Community Development Act of 1992 (Pub. L. 102-550; approved October 28, 1992); the Receptions Act (Pub. L. 104-19; enacted on July 27, 1995); the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569; approved December 27, 2000); and the Consolidated Appropriations Act, 2008 (Pub. L. 110-161; approved December 26, 2007).

The competition was announced in the SuperNOFA published in the **Federal Register** on May 12, 2008, 72

FR 27032. Applications were rated and selected for funding on the basis of selection criteria contained in that Notice.

The Catalog of Federal Domestic Assistance number for this program is 14.181.

The Section 811 program is the Department's primary program for providing affordable housing for persons with disabilities that allows them to live independently with supportive services. Under this program, HUD provides funds to non-profit organizations to develop supportive housing for persons with disabilities. Funds are also provided to subsidize the expenses to operate the housing projects.

A total of \$124,505,254 was awarded to 92 projects for 930 units nationwide. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A of this document.

Dated: May 1, 2009.

Brian Montgomerly,

Assistant Secretary for Housing—Federal Housing Commissioner.

FY 2008 SELECTIONS, SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

ALABAMA

Athens, AL, Ability Plus, Inc., Capital Advance: \$532,300, Three-year rental subsidy: \$37,500, Number of units: 4.

Decatur, AL, Ability Plus, Inc., Capital Advance: \$532,300, Three-year rental subsidy: \$37,500, Number of units: 4.

ARIZONA

Mesa, AZ, MARC Center of Mesa, Inc., Capital Advance: \$1,685,000, Three-year rental subsidy: \$129,600, Number of units: 14.

Phoenix, AZ, Triple R Behavioral Health, Inc., Capital Advance: \$1,002,900, Three-year rental subsidy: \$79,800, Number of units: 8.

Tucson, AZ, Comm. Partnership of Southern AZ, Inc., Capital Advance: \$1,337,300, Three-year rental subsidy: \$99,600, Number of units: 10.

COLORADO

Commerce City, CO, Archdiocesan Housing, Inc., Capital Advance: \$2,880,000, Three-year rental subsidy: \$204,600, Number of units: 19.

DELAWARE

Wilmington, DE, The Minister of Caring, Inc., Capital Advance: \$652,100, Three-year rental subsidy: \$87,600, Number of units: 6.

FLORIDA

LaBelle, FL, Goodwill Industries of SW FL, Capital Advance: \$1,917,800, Three-year rental subsidy: \$139,500, Number of units: 14.

Perry, FL, Goodwill Industries-Big-Bend, Inc., Capital Advance: \$1,583,200, Three-year rental subsidy: \$130,200, Number of units: 15.

St. Petersburg, FL, Boley Centers, Inc., Capital Advance: \$1,943,500, Three-year rental subsidy: \$140,700, Number of units: 16.

GEORGIA

Albany, GA, Albany Advocacy Resource Center, Inc., Capital Advance: \$837,300, Three-year rental subsidy: \$67,200, Number of units: 7.

Augusta, GA, Georgia Rehabilitation Institute, Inc., Capital Advance: \$595,100, Three-year rental subsidy: \$57,600, Number of units: 6.

Augusta, GA, Georgia Rehabilitation Institute, Inc., Capital Advance: \$1,572,500, Three-year rental subsidy: \$124,800, Number of units: 14.

Marietta, GA, Right in the Community, Inc., Capital Advance: \$412,500, Three-year rental subsidy: \$38,400, Number of units: 4.

ILLINOIS

Joliet, IL, Cornerstone Services, Inc., Capital Advance: \$1,278,400, Three-year rental subsidy: \$93,600, Number of units: 8.

Rockford, IL, Milestone, Inc., Capital Advance: \$1,203,500, Three-year rental subsidy: \$93,600, Number of units: 9.

Monmouth, IL, Warren Achievement Center, Capital Advance: \$602,000, Three-year rental subsidy: \$70,200, Number of units: 6.

INDIANA

Merrillville, IN, Southlake Center for Mental Health, Capital Advance: \$2,025,000, Three-year rental subsidy: \$151,800, Number of units: 15.

KANSAS

Garden City, KS, Mosaic, Capital Advance: \$1,019,300, Three-year rental subsidy: \$97,500, Number of units: 10.

KENTUCKY

LaGrange, KY, Cedar Lake Lodge, Inc., Capital Advance: \$1,181,400, Three-year rental subsidy: \$91,800, Number of units: 9.

Lexington, KY, Bluegrass Regional MH/MR Board, Inc., Capital Advance: \$1,153,800, Three-year rental subsidy: \$81,600, Number of units: 8.

LOUISIANA

New Iberia, LA, Community Directions, Inc., Capital Advance: \$580,300, Three-year rental subsidy: \$136,500, Number of units: 16.

MAINE

Lewiston, ME, John F. Murphy Homes, Inc., Capital Advance: \$576,600, Three-year rental subsidy: \$43,500, Number of units: 6.

Lewiston, ME, John F. Murphy Homes, Inc., Capital Advance: \$1,077,800, Three-year rental subsidy: \$66,600, Number of units: 6.

FY 2008 SELECTIONS, SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES—Continued

MARYLAND

Centreville, MD, Crossroads Community, Inc., Capital Advance: \$1,136,700, Three-year rental subsidy: \$117,900, Number of units: 10.	Sykesville, MD, Prologue, Inc., Capital Advance: \$1,278,500, Three-year rental subsidy: \$106,200, Number of units: 9.
Columbia, MD, Humanim, Inc., Capital Advance: \$852,300, Three-year rental subsidy: \$70,800, Number of units: 6.	Temple Hills, MD, Vesta, Inc., Capital Advance: \$1,062,000, Three-year rental subsidy: \$120,300, Number of units: 10.
Frederick, MD, Way Station, Inc., Capital Advance: \$883,000, Three-year rental subsidy: \$70,800, Number of units: 6.	

MASSACHUSETTS

Clarksburg, MA, The Association for Community Living, Capital Advance: \$614,400, Three-year rental subsidy: \$75,900, Number of units: 5.	Danvers, MA, Bridgewell, Inc., Capital Advance: \$614,400, Three-year rental subsidy: \$75,900, Number of units: 5.
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MICHIGAN

Hazel Park, MI, Community Housing Network, Capital Advance: \$1,524,554, Three-year rental subsidy: \$145,800, Number of units: 12.

MINNESOTA

Project Location: Alexandria, MN, Non-Profit Sponsor: Accessible Space, Inc., Capital Advance: \$1,792,700, Three-year rental subsidy: \$165,300, Number of units: 15.	Project Location: Hopkins, MN, Non-Profit Sponsor: Fraser, Capital Advance: \$1,931,800, Three-year rental subsidy: \$165,300, Number of units: 15.
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MISSISSIPPI

Project Location: Lexington, MS, Non-Profit Sponsor: NAMI Mississippi, Co-Sponsor: Quality Mental Health, Capital Advance: \$1,372,900, Three-year rental subsidy: \$125,700, Number of units: 14.
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MISSOURI

Project Location: Columbia, MO, Non-Profit Sponsor: Burrell Behavioral Health, Inc., Capital Advance: \$1,165,800, Three-year rental subsidy: \$105,000, Number of units: 10.	Project Location: Joplin, MO, Non-Profit Sponsor: Ozark Center, Capital Advance: \$1,406,500, Three-year rental subsidy: \$136,500, Number of units: 15.
Project Location: Jefferson City, MO, Non-Profit Sponsor: New Horizons Community Support, Capital Advance: \$1,165,800, Three-year rental subsidy: \$105,000, Number of units: 10.	Project Location: Kansas City, MO, Non-Profit Sponsor: Community Housing Network, Capital Advance: \$1,753,900, Three-year rental subsidy: \$154,800, Number of units: 15.
Project Location: Popular Bluff, MO, Non-Profit Sponsor: Family Counseling Center, Inc., Capital Advance: \$1,064,200, Three-year rental subsidy: \$105,000, Number of units: 10.	Project Location: Springfield, MO, Non-Profit Sponsor: Burrell Behavioral Health, Inc., Capital Advance: \$1,416,900, Three-year rental subsidy: \$126,600, Number of units: 14.

NEBRASKA

Project Location: Norfolk, NE, Non-Profit Sponsor: Liberty Centre Services, Inc., Capital Advance: \$1,097,700, Three-year rental subsidy: \$99,600, Number of units: 10.

NEVADA

Project Location: Las Vegas, NV, Non-Profit Sponsor: Accessible Space, Inc., Capital Advance: \$3,108,400, Three-year rental subsidy: \$240,000, Number of units: 22.

NEW JERSEY

Project Location: Galloway, NJ, Non-Profit Sponsor: CARING, Inc., Co-Sponsor: CARING House Projects, Inc., Capital Advance: \$1,153,300, Three-year rental subsidy: \$125,400, Number of units: 8.	Project Location: Livingston, NJ, Non-Profit Sponsor: Cerebral Palsy of New Jersey, Inc., Capital Advance: \$652,100, Three-year rental subsidy: \$122,100, Number of units: 6.
Project Location: Linden, NJ, Non-Profit Sponsor: NJ Connect, Inc., Co-Sponsor: The Domus Corp., Capital Advance: \$1,765,600, Three-year rental subsidy: \$203,400, Number of units: 11.	Project Location: Plainfield, NJ, Non-Profit Sponsor: Cerebral Palsy of New Jersey, Inc., Capital Advance: \$576,600, Three-year rental subsidy: \$81,600, Number of units: 4.
Project Location: West Orange, NJ, Non-Profit Sponsor: Cerebral Palsy of New Jersey, Inc., Capital Advance: \$576,600, Three-year rental subsidy: \$81,600, Number of units: 4.	

NEW YORK

Project Location: Lake Ronkonkoma, NY, Non-Profit Sponsor: Options for Community Living, Inc., Capital Advance: \$2,080,900, Three-year rental subsidy: \$282,000, Number of units: 12.	Project Location: Levittown, NY, Non-Profit Sponsor: Nassau AHRC, Capital Advance: \$652,100, Three-year rental subsidy: \$141,000, Number of units: 6.
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FY 2008 SELECTIONS, SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES—Continued

Project Location: Utica, NY, Non-Profit Sponsor: Rebuild Mohawk Valley, Capital Advance: \$1,063,200, Three-year rental subsidy: \$74,400, Number of units: 6.

NORTH CAROLINA

Gastonia, NC, Reinvestment in Communities of Gaston County, Inc., Capital Advance: \$1,238,700, Three-year rental subsidy: \$91,800, Number of units: 9.

Raleigh, NC, Community Alternatives for Supportive Abodes, Capital Advance: \$1,223,600, Three-year rental subsidy: \$91,800, Number of units: 9.

Wilkesboro, NC, Nurture Appalachia Community Development Corporation, Capital Advance: \$647,100, Three-year rental subsidy: \$61,200, Number of units: 6.

NORTH DAKOTA

Grand Forks, ND, Development Homes, Inc., Capital Advance: \$680,000, Three-year rental subsidy: \$45,900, Number of units: 6.

OHIO

Archbold, OH, Filling Memorial Home of Mercy, Inc., Capital Advance: \$1,430,600, Three-year rental subsidy: \$146,100, Number of units: 12.

South Euclid, OH, Jewish Community Housing Corporation, Capital Advance: \$456,900, Three-year rental subsidy: \$48,900, Number of units: 4.

Toledo, OH, Luther Home of Mercy, Capital Advance: \$1,430,600, Three-year rental subsidy: \$146,100, Number of units: 12.

OKLAHOMA

McAlester, OK, Accessible Space, Inc., Capital Advance: \$1,383,700, Three-year rental subsidy: \$134,700, Number of units: 15.

Muskogee, OK, Sheltered Work-Activity Program, Inc., Capital Advance: \$832,700, Three-year rental subsidy: \$115,500, Number of units: 12.

OREGON

Beaverton, OR, Sequoia Mental Health Services, Capital Advance: \$1,862,800, Three-year rental subsidy: \$147,600, Number of units: 15.

Grants Pass, OR, Options for Southern Oregon, Inc., Capital Advance: \$1,441,900, Three-year rental subsidy: \$116,100, Number of units: 12.

Springfield, OR, Sheltercare, Capital Advance: \$1,977,500, Three-year rental subsidy: \$168,900, Number of units: 16.

PENNSYLVANIA

Beaver, PA, Passavant Memorial Hospital, Capital Advance: \$953,700, Three-year rental subsidy: \$88,200, Number of units: 8.

Erie, PA, HANDS, Inc., Capital Advance: \$1,153,400, Three-year rental subsidy: \$110,100, Number of units: 10.

Philadelphia, PA, Columbus Property Management & Development, Capital Advance: \$1,572,500, Three-year rental subsidy: \$141,900, Number of units: 9.

Philadelphia, PA, Aut Living and Working, Inc., Capital Advance: \$576,600, Three-year rental subsidy: \$63,000, Number of units: 4.

Philadelphia, PA, Columbus Property Management & Development, Capital Advance: \$1,572,500, Three-year rental subsidy: \$141,900, Number of units: 9.

Philadelphia, PA, Liberty Resources, Inc., Capital Advance: \$1,970,500, Three-year rental subsidy: \$204,900, Number of units: 13.

RHODE ISLAND

Warwick, RI, House of Hope Community Development Corp., Capital Advance: \$724,300, Three-year rental subsidy: \$70,800, Number of units: 5.

Westerly, RI, WARM, Inc., Capital Advance: \$1,278,100, Three-year rental subsidy: \$113,100, Number of units: 8.

SOUTH CAROLINA

Holly Hill, SC, Mental Health America of South Carolina, Capital Advance: \$1,841,000, Three-year rental subsidy: \$131,400, Number of units: 14.

SOUTH DAKOTA

Sioux Falls, SD, Accessible Space, Capital Advance: \$2,014,000, Three-year rental subsidy: \$127,200, Number of units: 15.

FY 2008 SELECTIONS, SECTION 811 SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES—Continued

TENNESSEE

Memphis, TN, Cocaine & Alcohol Awareness Program, Inc., Capital Advance: \$1,429,200, Three-year rental subsidy: \$134,400, Number of units: 15.	Memphis, TN, Mosaic, Capital Advance: \$840,800, Three-year rental subsidy: \$76,800, Number of units: 8.
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TEXAS

Austin, TX, UCP of Texas, Capital Advance: \$739,900, Three-year rental subsidy: \$74,700, Number of units: 8.	Rosenberg, TX, Texana Center, Capital Advance: \$1,406,500, Three-year subsidy: \$141,600, Number of units: 15.
El Paso, TX, TVP Non-Profit Corporation, Co-Sponsor: Opportunity Center for the Homeless, Capital Advance: \$1,419,300, Three-year rental subsidy: \$137,400, Number of units: 15.	

VIRGINIA

Rocky Mount, VA, Piedmont Regional Comm. Ser. Bd., Capital Advance: \$494,100, Three-year rental subsidy: \$63,300, Number of units: 6.	Stafford County, VA, Rappahannock Comm. Ser., Inc., Capital Advance: \$494,100, Three-year rental subsidy: \$63,300, Number of units: 6.
Stafford County, VA, Rappahannock Comm. Ser., Inc., Capital Advance: \$494,100, Three-year rental subsidy: \$63,300, Number of units: 6.	

WASHINGTON

Everett, WA, Washington Home of Their Own, Capital Advance: \$1,088,200, Three-year rental subsidy: \$92,100, Number of units: 8.	Moses Lake, WA, Community Frameworks, Capital Advance: \$1,989,200, Three-year rental subsidy: \$188,700, Number of units: 17.
Kennewick, WA, Shalom Ecumenical Center, Capital Advance: \$1,677,600, Three-year rental subsidy: \$155,400, Number of units: 15.	Spokane, WA, Spokane Mental Health, Capital Advance: \$1,917,000, Three-year rental subsidy: \$177,600, Number of units: 17.

WISCONSIN

Black River Falls, WI, Impact Seven, Inc., Capital Advance: \$999,000, Three-year rental subsidy: \$88,500, Number of units: 8.	Madison, WI, Movin' Out, Inc., Capital Advance: \$1,453,200, Three-year rental subsidy: \$121,800, Number of units: 11.
Hudson, WI, Accessible Space, Inc., Capital Advance: \$1,945,800, Three-year rental subsidy: \$154,800, Number of units: 15.	Spooner, WI, Impact Seven, Inc., Capital Advance: \$1,173,500, Three-year rental subsidy: \$88,500, Number of units: 8.

[FR Doc. E9-11091 Filed 5-12-09; 8:45 am]
BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5100-FA-07]

Announcement of Funding Awards for the Section 202 Supportive Housing for the Elderly Program Fiscal Year 2007

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Super Notice of Funding Availability (SuperNOFA) for the Section 202 Supportive Housing for the Elderly Program. This announcement contains the names of the awardees and the

amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Mr. Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, 451 7th Street, SW., Washington, DC 20410; telephone (202) 708-3000 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1-800-877-8339. For general information on this and other HUD programs, visit the HUD Web site at <http://www.hud.gov>.

SUPPLEMENTARY INFORMATION: The Section 202 Supportive Housing for the Elderly Program is authorized by Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625; approved November 28, 1990); the Housing and Community Development Act of 1992 (Pub. L. 102-550; approved October 28, 1992); the Recessions Act (Pub. L. 104-19; enacted on July 27, 1995); the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-

569; approved December 27, 2000); and the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110-5; approved February 15, 2007).

The competition was announced in the SuperNOFA published in the Federal Register on March 13, 2007, 72 FR 11434. Applications were rated and selected for funding on the basis of selection criteria contained in that Notice.

The Catalog of Federal Domestic Assistance number for this program is 14.157.

The Section 202 program is the Department's primary program for providing affordable housing for the elderly that allows them to live independently with supportive services. Under this program, HUD provides funds to private non-profit organizations to develop supportive housing for the elderly. Funds are also provided to subsidize the expenses to operate the housing projects.

A total of \$518,889,900 was awarded to 104 projects for 3,857 units nationwide. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development

Reform Act of 1989 (103 Stat. 1987. 42 the awards in Appendix A of this
U.S.C. 3545), the Department is document.
publishing the grantees and amounts of

Dated: May 1, 2009.

Brian Montgomery,

*Assistant Secretary for Housing—Federal
Housing Commissioner.*

FY 2007 SELECTIONS, SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY

ALABAMA

Northport, AL, Presbytery of Sheppards and Lapsley, Capital Advance: \$3,873,500, Three-year rental subsidy: \$379,500, Number of units: 42.	Theodore, AL, AHEPA National Housing Corporation, Capital Advance: \$5,233,800, Three-year rental subsidy: \$379,500, Number of units: 42.
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ARIZONA

Phoenix, AZ, National Farm Workers Service Center, Inc., Capital Advance: \$4,755,100, Three-year rental subsidy: \$460,200, Number of units: 49.	Phoenix, AZ, Phoenix Chinese Senior Citizens Association, Capital Advance: \$5,005,800, Three-year rental subsidy: \$393,300, Number of units: 42.
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ARKANSAS

Harrison, AR, Northwest Regional Housing Dev. Corp, Capital Advance: \$1,234,000, Three-year rental subsidy: \$117,600, Number of units: 14.	Visalia, CA, CCHNC, Co-Sponsor Visalia Senior Housing, Inc., Capital Advance: \$5,693,800, Three-year rental subsidy: \$727,800, Number of units: 43.
Pocahontas, AR, Pocahontas Senior Housing, Inc., Capital Advance: \$1,234,000, Three-year rental subsidy: \$117,600, Number of units: 14.	

CALIFORNIA

Fontana, CA, Elderly Hsg Development & Operations Corp, Capital Advance: \$8,594,700, Three-year rental subsidy: \$916,500, Number of units: 60.	San Bernardino, CA, TELACU, Capital Advance: \$10,735,700, Three-year rental subsidy: \$1,149,600, Number of units: 75.
Hemet, CA, WASET, Inc., Capital Advance: \$9,308,400, Three-year rental subsidy: \$994,200, Number of units: 65.	San Leandro, CA, Eden Housing, Inc., Capital Advance: \$7,310,100, Three-year rental subsidy: \$866,400, Number of units: 51.
Los Angeles, CA, Menorah Housing Foundation, Capital Advance: \$6,596,500, Three-year rental subsidy: \$699,300, Number of units: 46.	San Ramon, CA, ABHOW, Capital Advance: \$12,282,400, Three-year rental subsidy: \$1,542,000, Number of units: 90.
Oakland, CA, CCHNC, Capital Advance: \$8,606,900, Three-year rental subsidy: \$1,056,900, Number of units: 62.	Visalia, CA, CCHNC, Co-Sponsor Visalia Senior Housing, Inc., Capital Advance: \$5,693,800, Three-year rental subsidy: \$727,800, Number of units: 43.

COLORADO

Carbondale, CO, Carbondale Senior Housing Corp., Capital Advance: \$2,046,300, Three-year rental subsidy: \$155,700, Number of units: 15.	Durango, CO, VOA National Services, Capital Advance: \$3,438,600, Three-year rental subsidy: \$249,000, Number of units: 25.
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FLORIDA

Pinellas Park, FL, Diocese of Southwest Florida, Capital Advance: \$12,560,400, Three-year rental subsidy: \$744,900, Number of units: 88.	Tampa, FL, Diocese of St. Petersburg, Co-Sponsor: Catholic Charities, Capital Advance: \$9,705,700, Three-year rental subsidy: \$575,700, Number of units: 68.
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GEORGIA

Albany, GA, Innovative Housing Initiatives, Capital Advance: \$2,228,900, Three-year rental subsidy: \$221,700, Number of units: 24.	Cairo, GA, Family Worship Center Church of God, Capital Advance: \$1,578,800, Three-year rental subsidy: \$157,200, Number of units: 17.
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HAWAII

Kapolei, HI, Pacific Housing Assistance Corporation, Capital Advance: \$3,952,500, Three-year rental subsidy: \$272,400, Number of units: 20.	
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ILLINOIS

Chicago, IL, NHS Redevel Corp., Capital Advance: \$8,563,900, Three-year rental subsidy: \$655,500, Number of units: 60.	Chicago, IL, Habilitative Systems, Inc., Capital Advance: \$8,594, 700, Three-year rental subsidy: \$655,500, Number of units: 60.
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FY 2007 SELECTIONS, SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

INDIANA

Georgetown, IN, Guerin, Inc., Capital Advance: \$2,499,600, Three-year rental subsidy: \$250,500, Number of units: 25.	Indianapolis, IN, Mount Paran Baptist Church, Capital Advance: \$5,182,600, Three-year rental subsidy: \$511,500, Number of units: 50.
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KENTUCKY

Elkhorn City, KY, Pike Co Affordable Hsg Devl, Capital Advance: \$1,809,400, Three-year rental subsidy: \$156,900, Number of units: 16.	Louisville, KY, Catholic Charities of Louisville, Capital Advance: \$3,490,300, Three-year rental subsidy: \$333,300, Number of units: 34.
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LOUISIANA

Albany, LA, Presbytery of South Louisiana, Capital Advance: \$717,700, Three-year rental subsidy: \$70,200, Number of units: 8.	New Orleans, LA, AHEPA National Housing Corporation, Capital Advance: \$4,202,900, Three-year rental subsidy: \$385,200, Number of units: 44.
Basile, LA, Diocese of Lafayette, Capital Advance: \$1,095,100, Three-year rental subsidy: \$96,300, Number of units: 12.	Vinton, LA, Calcasieu Council on Aging, Capital Advance: \$1,005,500, Three-year rental subsidy: \$96,300, Number of units: 12.
Monroe, LA, Ouachita Council on Aging, Inc., Capital Advance: \$3,116,700, Three-year rental subsidy: \$325,200, Number of units: 36.	

MAINE

Bangor, ME, VOANNE, Capital Advance: \$5,138,300, Three-year rental subsidy: \$400,200, Number of units: 36.
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MARYLAND

Baltimore, MD, Associated Catholic Charities, Capital Advance: \$5,958,500, Three-year rental subsidy: \$613,500, Number of units: 54.	Havre de Grace, MD, St. Johns Church, Capital Advance: \$5,958,500, Three-year rental subsidy: \$613,500, Number of units: 54.
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MASSACHUSETTS

Auburn, MA, Elder Services of Worcester Area, Inc., Co-Sponsor Kateri Tekakwitha Development, Inc., Capital Advance: \$4,281,900, Three-year rental subsidy: \$438,300, Number of units: 30.	Lee, MA, Elder Services of Berkshire County, Inc., Capital Advance: \$1,855,500, Three-year rental subsidy: \$189,900, Number of units: 13.
Billerica, MA, Planning Office for Urban Affairs, Inc., Capital Advance: \$4,774,700, Three-year rental subsidy: \$496,800, Number of units: 35.	Mattapan, MA, ETC Development Corporation, Co-Sponsor Inquilinos Boricuas en Accion, Inc., Capital Advance: \$4,281,900, Three-year rental subsidy: \$438,300, Number of units: 30.
Holyoke, MA, MERCY HOUSING INC., Co-Sponsor: The Congregation of the Sisters of St. Joseph, Capital Advance: \$4,281,900, Three-year rental subsidy: \$438,300, Number of units: 30.	Townsend, MA, RCAP Solutions, Inc., Capital Advance: \$5,039,500, Three-year rental subsidy: \$525,900, Number of units: 36.

MICHIGAN

Jackson, MI, Presbyterian Villages of Michigan, Capital Advance: \$3,510,300, Three-year rental subsidy: \$379,800, Number of units: 40.
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MINNESOTA

Bloomington, MN, AHEPA, Capital Advance: \$4,231,100, Three-year rental subsidy: \$408,900, Number of units: 36.	Worthington, MN, Accessible Space, Capital Advance: \$2,156,500, Three-year rental subsidy: \$204,600, Number of units: 19.
Robbinsdale, MN, Commonbond Communities, Capital Advance: \$4,231,100, Three-year rental subsidy: \$408,900, Number of units: 36.	

MISSISSIPPI

Jackson, MS, People with Vision, Inc., Capital Advance: \$1,770,500, Three-year rental subsidy: \$177,000, Number of units: 20.

MISSOURI

Kansas City, MO, Harvest Church, Inc., Capital Advance: \$4,932,100, Three-year rental subsidy: \$489,900, Number of units: 47.	St. Louis, MO, AHEP National Housing Corporation, Capital Advance: \$4,787,000, Three-year rental subsidy: \$448,800, Number of units: 40.
Kansas City, MO, Catholic Charities of Kansas City—St. Joseph, Inc., Capital Advance: \$5,160,300, Three-year rental subsidy: \$489,900, Number of units: 47.	

FY 2007 SELECTIONS, SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

MONTANA

Billings, MT, VOA National Services, Capital Advance: \$6911,100, Three-year rental subsidy: \$613,800, Number of units: 65.

NEBRASKA

Papillion, NE, Immanuel Health Systems, Capital Advance: \$2,046,300, Three-year rental subsidy: \$192,000, Number of units: 20.

NEW HAMPSHIRE

Bristol, NH, SNHS Management Corporation, Capital Advance: \$2,711,900, Three-year rental subsidy: \$211,200, Number of units: 19.

Pembroke, NH, Belknap-Merrimack CAP, Capital Advance: \$2,426,400, Three-year rental subsidy: \$189,000, Number of units: 17.

Swansey, NH, Southwestern Community Services, Inc., Capital Advance: \$2,711,900, Three-year rental subsidy: \$21,200, Number of units: 19.

NEW JERSEY

Manchester Twp, NJ, PHS Senior Living, Inc., Capital Advance: \$11,835,400, Three-year rental subsidy: \$1,260,300, Number of units: 84.

Pleasantville, NJ, CARING, Inc., Co-Sponsor: CARING House Projects, Inc., Capital Advance: \$3,696,700, Three-year rental subsidy: \$394,800, Number of units: 26.

Pleasantville, NJ, The Diocesan Hsg Ser Corp, Co-Sponsor Cath Char, Dioc of Camden, Inc., Capital Advance: \$10,552,200, Three-year rental subsidy: \$1,108,500, Number of units: 74.

NEW MEXICO

Albuquerque, NM, Elderly Hsg Dev and Operations Corp., Capital Advance: \$3,623,200, Three-year rental subsidy: \$383,700, Number of units:.

NEW YORK

Amagansett, NY, Windmill Housing Development Fund Co., Inc., Capital Advance: \$5,882,800, Three-year rental subsidy: \$891,600, Number of units: 41.

Angola, NY, People, Inc., Capital Advance: \$3,682,400, Three-year rental subsidy: \$337,800, Number of units: 30.

New York, NY, Harlem Congregations for Community Improvement, Capital Advance: \$9,451,100, Three-year rental subsidy: \$1449,000, Number of units: 66.

Queens, NY, Metro NY Coordination Council, Capital Advance: \$11,163,900, Three-year rental subsidy: \$1,716,300, Number of units: 78.

Brooklyn, NY, Community Partners Commission Association, Co-Sponsor: East New York Council for the Aging, Capital Advance: \$7,237,300, Three-year rental subsidy: \$1,114,500, Number of units: 51.

New Rochelle, NY, Westhab, Inc., Co-Sponsor: Shiloh Community Development Corporation, Capital Advance: \$5,740,100, Three-year rental subsidy: \$869,400, Number of units: 40.

Orchard Park, NY, People, Inc., Capital Advance: \$5,266,700, Three-year rental subsidy: \$489,000, Number of units: 43.

Rochester, NY, Providence Hsg Devl Corp., Capital Advance: \$3,876,800, Three-year rental subsidy: \$384,300, Number of units: 33.

NORTH CAROLINA

Albemarle, NC, John H. Wellons FND Inc., Capital Advance: \$2,984,400, Three-year rental subsidy: \$235,500, Number of units: 24.

OHIO

Cincinnati, OH, Clermont Senior Services, Capital Advance: \$4,891,300, Three-year rental subsidy: \$473,100, Number of units: 45.

Cleveland, OH, Catholic Charities Housing Corp., Capital Advance: \$4,501,500, Three-year rental subsidy: \$468,300, Number of units: 40.

Cleveland, OH, Catholic Charities Housing Corp., Capital Advance: \$4,501,500, Three-year rental subsidy: \$468,300, Number of units: 40.

Tallmadge, OH, AHEPA National Housing Corporation, Capital Advance: \$5,626,900, Three-year rental subsidy: \$585,600, Number of units: 50.

Trenton, OH, Franklin Foundation, Inc., Co-Sponsor: The Freedom House, Church of God, Capital Advance: \$2,514,700, Three-year rental subsidy: \$241,800, Number of units: 24.

Warren, OH, Trumbull Housing Development Corporation, Capital Advance: \$4,501,500, Three-year rental subsidy: \$468,300, Number of units: 40.

OKLAHOMA

Ardmore, OK, Big Five Community Services, Inc., Capital Advance: \$1,226,700, Three-year rental subsidy: \$126,600, Number of units: 14.

Lawton, OK, Lawton Support Services, Inc., Capital Advance: \$3,084,900, Three-year rental subsidy: \$307,200, Number of units: 35.

FY 2007 SELECTIONS, SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

Hobart, OK, Searchlight Center Inc., Capital Advance: \$1,278,100, Three-year rental subsidy: \$126,600, Number of units: 14.	
PENNSYLVANIA	
Clearfield, PA, Central PA Devl Corp., Capital Advance: \$1,278,100, Three-year rental subsidy: \$127,200, Number of units: 12.	Homestead, PA, LifeSpan, Inc., Capital Advance: \$891,500, Three-year rental subsidy: \$84,900, Number of units: 8.
Greenville, PA, Comm. Action Partnership of Mercer County, Capital Advance: \$2,563,100, Three-year rental subsidy: \$243,600, Number of units: 23.	Philadelphia, PA, Salvation Army, a NY Corp., Capital Advance: \$7,230,300, Three-year rental subsidy: \$809,100, Number of units: 53.
Somerset, PA, Allegheny LUTH SOC MNSTR, Capital Advance: \$3,566,100, Three-year rental subsidy: \$339,000, Number of units: 32.	
RHODE ISLAND	
Little Compton, RI, Church Community Housing Corporation, Capital Advance: \$2,854,600, Three-year rental subsidy: \$272,400, Number of units: 20.	
Providence, RI, SWAP, Inc., Capital Advance: \$3,140,100, Three-year rental subsidy: \$299,400, Number of units: 22.	
SOUTH CAROLINA	
Columbia, SC, AHEPA National Housing Corporation, Capital Advance: \$4,756,200, Three-year rental subsidy: \$343,200, Number of units: 38.	Florence, SC, John H. Wellons FND Inc., Capital Advance: \$4,546,000, Three-year rental subsidy: \$343,200, Number of units: 38.
Easley, SC, Metropolitan Housing and CDC, Inc., Capital Advance: \$4,546,000, Three-year rental subsidy: \$343,200, Number of units: 38.	Greer, SC, Volunteers of America National Services, Capital Advance: \$4,756,200, Three-year rental subsidy: \$334,200, Number of units: 38.
SOUTH DAKOTA	
North Sioux City, SD, LUTH SOC Services of South Dakota, Capital Advance: \$2,036,200, Three-year rental subsidy: \$175,200, Number of units: 21.	
TENNESSEE	
Bristol, TN, Miligan College, Capital Advance: \$1,943,300, Three-year rental subsidy: \$180,600, Number of units: 20.	Huntsville, TN, Douglas Cherokee Economic Authority, Inc., Capital Advance: \$778,800, Three-year rental subsidy: \$72,300, Number of units: 8.
TEXAS	
Austin, TX, Chestnut Neighborhood Revitalization Corporation, Capital Advance: \$2,000,100, Three-year rental subsidy: \$189,000, Number of units: 22.	Houston, TX, Pilgrim Senior Citz Hsg Devl Corp, Capital Advance: \$3,579,200, Three-year rental subsidy: \$389,400, Number of units: 40.
Dallas, TX, St. Catherine of Siena, Inc., Capital Advance: \$6,269,500, Three-year rental subsidy: \$666,600, Number of units: 69.	
VIRGINIA	
Bedford, VA, Metropolitan Housing & CDC, Inc., Capital Advance: \$4,853,400, Three-year rental subsidy: \$507,900, Number of units: 50.	Urbanna, VA, Bay Aging, Capital Advance: \$1,164,800, Three-year rental subsidy: \$122,100, Number of units: 12.
Norfolk, VA, Retirement Housing Foundation, Capital Advance: \$3,902,700, Three-year rental subsidy: \$396,300, Number of units: 40.	
WASHINGTON	
Federal Way, WA, Korean Women's Association, Capital Advance: \$7,855,500, Three-year rental subsidy: \$736,800, Number of units: 62.	Spokane, WA, Spokane Baptist Association Homes, Capital Advance: \$4,128,200, Three-year rental subsidy: \$427,200, Number of units: 40.
Lynwood, WA, American Baptist Homes, Capital Advance: \$5,077,700, Three-year rental subsidy: \$471,300, Number of units: 40.	

FY 2007 SELECTIONS, SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

WEST VIRGINIA

Terra Alta, WV, Garrett Co Comm Action Committee, Inc., Co-Sponsor
N Central WV Comm Action Assoc, Inc., Capital Advance:
\$2,308,600, Three-year rental subsidy: \$218,700, Number of units:
20.

WISCONSIN

Pittsville, WI, Impact Seven INC, Capital Advance: \$1,107,600, Three-
year rental subsidy: \$106,500, Number of units: 10.

[FR Doc. E9-11093 Filed 5-12-09; 8:45 am]
BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-FHC-2009-N0098]; [81331-1334-
8TWG-W4]

Trinity Adaptive Management Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Trinity Adaptive Management Working Group (TAMWG) affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight. This notice announces a TAMWG meeting, which is open to the public.

DATES: TAMWG will meet from 12 p.m. (noon) to 5 p.m. on Wednesday, June 10, 2009, and from 8 a.m. to 5 p.m. on Thursday, June 11, 2009.

ADDRESSES: The meeting will be held at the Trinity County Library, 211 Main St., Weaverville, CA 96093.

FOR FURTHER INFORMATION CONTACT:

Meeting information: Randy A. Brown, TAMWG Designated Federal Officer, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; telephone: (707) 822-7201. *TRRP information:* Mike Hamman, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, CA 96093; telephone: (530) 623-1800; e-mail: mhamman@mp.usbr.gov.

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces a meeting of the

TAMWG. The meeting will include discussion of the following topics:

- TRRP structure and TAMWG/TMC/TRRP relationships;
 - Budget update;
 - Channel rehabilitation program;
 - Reservoir management;
- Temperature issues, carryover storage, minimum pool criteria;
- Hatchery goals and practices;
 - Sediment monitoring;
 - Progress towards an RFP-based science program; and
 - Integrated Information Management System (IIMS).

Completion of the agenda is dependent on the amount of time each item takes. The meeting could end early if the agenda has been completed.

Dated: May 7, 2009.

Randy A. Brown,

Designated Federal Officer, Arcata Fish and Wildlife Office, Arcata, CA.

[FR Doc. E9-11137 Filed 5-12-09; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORE0000 L58820000 LXRSEE99 HAG-
09-0186]

Notice of Public Meetings for the Eugene District, Resource Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Emergency Economic Stabilization Act of 2008, Title VI, Secure Schools and Community Self-Determination Program (H.R. 1424), the Federal Land Policy and Management Act, and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management, the Eugene District Resource Advisory Committee will meet as indicated below.

DATES AND ADDRESSES: The Eugene District Resource Advisory Committee will meet at the Bureau of Land

Management, Eugene District Office, 2890 Chad Drive, Eugene, Oregon 97408, on June 11, 2009 and September 10, 2009. All meeting sessions will begin at 9 a.m. local time and will end at approximately 4:30 p.m. local time.

SUPPLEMENTARY INFORMATION: The Eugene District Resource Advisory Committee was appointed originally by the Secretary of the Interior pursuant to the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) and re-authorized by the Emergency Economic Stabilization Act of 2008, Title VI, Secure Schools and Community Self-Determination Program (H.R. 1424).

Topics to be discussed by the Eugene District Resource Advisory Committee at these meetings include reviewing project proposals meeting the requirements under Section 201, H.R. 1424, "Title II—Special Projects on Federal Land," and recommending funding for such projects to the Secretary of Interior.

All meetings are open to the public in their entirety. Public comment is generally scheduled for 11:30 a.m. to 12 p.m. local time, each meeting session. The amount of time scheduled for public presentations and meeting times may be extended when the authorized representative considers it necessary to accommodate all who seek to be heard regarding matters on the agenda.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Elliott, Designated Federal Officer, Bureau of Land Management, Eugene District Office, 2890 Chad Drive, Eugene, Oregon 97408 (541) 683-6989, or wayne_elliott@blm.gov.

Dated: May 6, 2009.

Wayne E. Elliott,

Designated Federal Officer.

[FR Doc. E9-11087 Filed 5-12-09; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Notice is hereby given that on May 7, 2009, a Complaint was filed and a proposed Consent Decree was lodged in *United States v. Anadarko Petroleum Corporation, Howell Corporation, and Howell Petroleum Corporation*, Civil Action No. 09–CV–100–D with the United States District Court for the District of Wyoming.

The proposed Consent Decree concerning Defendants' onshore, non-transportation, oil production facilities in Wyoming and Montana resolves all claims asserted in the United States' Complaint under the Clean Water Act, 33 U.S.C. 1311(a) and 1321(b)(3), as amended by the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. 2701–2762, related to unauthorized discharges of oil from Defendants' facility as well as allegations pursuant that Defendants failed to prepare adequate Spill Prevention Control and Countermeasures Plans ("SPCC Plans") and lacked required Facility Response Plans ("FRPs").

The settlement secures \$1,050,000 in civil penalties and an estimated \$8,717,500 in injunctive relief from Defendants. Among other things, the injunctive relief requires Defendants to: revise facility SPCC Plans; create FRP Plans for 4 facilities; assure secondary containment conforms to requirements; adopt a facility integrity and release mitigation program which will include, among other things, increased inspections and integrity testing of certain facility components.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the settlement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States v. Anadarko Petroleum Corporation, Howell Corporation, and Howell Petroleum Corporation*, Civil Action No. 09–CV–100–D, Ref. 90–5–1–1–08426.

The Consent Decree may be examined at the United States Attorney's Office for the District of Wyoming, 2120 Capitol Avenue—4th Floor, Cheyenne, Wyoming 82001 (USAO No. 06V100) and at U.S. EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129. During the public comment period, the Consent Decree may also be

examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, exclusive of exhibits, from the Consent Decree Library, please enclose a check in the amount of \$11.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. If requesting a copy including all exhibits, please enclose a check in the amount of \$14.50 payable to the U.S. Treasury.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–11131 Filed 5–12–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Under 28 CFR 50.7, notice is hereby given that on May 5, 2009, a proposed Consent Decree in *United States v. Emma B. Masset*, 08 Civ. 6336 (SCR), was lodged with the United States District Court for the Southern District of New York.

The Consent Decree resolves the claims of the United States, on behalf of the Environmental Protection Agency ("EPA") under sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.* against defendant Emma B. Masset, relating to Westwood Chemical Corp. Superfund Site, located in Orange County, New York (the "Site").

In a complaint filed on July 14, 2008, the United States alleged that Masset was an operator of the Westwood Chemical facility at the time of disposal of hazardous substances pursuant to section 107(a)(2) of CERCLA. Specifically, Masset was an operator of the facility from approximately 1998, when she became President of Westwood, until approximately January 2005, when Ms. Masset decided to abandon the facility following Westwood's October 2005 bankruptcy

petition. According to the Complaint, during that time, hazardous substances including hydrochloric acid, sulfuric acid, mercury, lead, chromium, copper, zinc, silver, selenium and arsenic were disposed of at the Site. The Complaint sought unreimbursed costs incurred by the United States and a declaration of liability with respect to any future response costs.

Pursuant to the Consent Decree, Masset will pay the United States a total of \$184,000, in three equal installments of \$61,000 over a two-year period, to resolve her liability at the Site. The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States v. Emma Masset*, D.J. #90–11–2–08602/2.

During the public comment period, the Consent Decree may be examined on the following Department of Justice Web site, http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$5.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief Environmental, Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–11132 Filed 5–12–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR**Employment and Training
Administration****Employment and Training
Administration Program Year (PY) 2009
Workforce Investment Act (WIA)
Allotments and Additional Funds From
WIA Section 173(e) for Adult/
Dislocated Worker Activities for
Eligible States; PY 2009 Wagner-
Peyser Act Final Allotments; PY 2009
Workforce Information Grants and FY
2009 Work Opportunity Tax Credit
Allotments**

AGENCY: Employment and Training
Administration, Labor.

ACTION: Notice.

SUMMARY: This Notice announces states' allotments for PY 2009 for WIA Title I Youth, Adults and Dislocated Worker Activities programs; additional PY 2009 funding from WIA Section 173(e) for eligible states; final allotments for Employment Service (ES) activities under the Wagner-Peyser Act for PY 2009; Workforce Information Grants for PY 2009; and Work Opportunity Tax Credit (WOTC) allotments for FY 2009.

The WIA allotments for states and the final allotments for the Wagner-Peyser Act are based on formulas defined in their respective statutes. The WIA allotments for the outlying areas are based on a formula determined by the Secretary. As required by WIA section 182(d), on February 17, 2000, a Notice of the discretionary formula for allocating PY 2000 funds for the outlying areas (American Samoa, Guam, Marshall Islands, Micronesia, Northern Marianas, Palau, and the Virgin Islands) was published in the **Federal Register** at 65 FR 8236 (February 17, 2000). The rationale for the formula and methodology was fully explained in the February 17, 2000, **Federal Register** Notice. The formula for PY 2009 is the same as used for PY 2000 and is described in the section on Youth Activities program allotments. Comments are invited on the formula used to allot funds to the outlying areas.

States are expected to spend PY 2009 funds concurrently with Recovery Act funding to increase the availability of services quickly and effectively. The significant investment of funds presents an extraordinary and unique opportunity for the workforce system to advance transformational efforts and demonstrate its full capacity to innovate and implement effective One-Stop service delivery strategies. As states and localities plan how their One-Stop systems will make immediate use of the

Recovery Act funds, ETA encourages them to take an expansive view of how the funds can be integrated into efforts to improve the effectiveness of the public workforce system. In this system, the needs of workers and employers are equally important in developing thriving communities where all citizens succeed and businesses prosper. Successful implementation of funding includes not only quick and effective provision of services and training for workers in need, but also leveraging changes in the system's basic operations to develop a strong, invigorated, innovative public workforce system capable of helping enable future economic growth and advancing shared prosperity for all Americans.

In a stronger, more comprehensive workforce investment system, adults move easily between the labor market and education and training in order to advance in their careers and upgrade their contributions to the workplace, while disconnected youth are able to reconnect through multiple pathways to education and training opportunities necessary to enter and advance in the workforce. Adult education, job training, post-secondary education, registered apprenticeship, career advancement and supportive service activities are fully aligned with economic and community development strategies, so as to meet the skill needs of existing and emerging employers and high growth occupations as well as the needs of under-skilled adults. Under such a dual-customer approach, seamless career pathways would be developed and offered, and support services and needs-based payments would be available, making it far easier for young people and adults to advance and persist through progressive levels of the education and job training system as quickly as possible, and gain education and workforce skills of demonstrated value at each level. Education and training at every level would be closely aligned with jobs and industries important to local and regional economies. Every level of education and training would afford students and trainees the ability to advance in school or at work, with assessments and certifications linked to the requirements of the next level of education and employment.

With this infusion of PY 2009 funding, along with the recent release of Recovery Act funds, states and local areas should consider how their funding decisions and implementation activities can help achieve this goal of workforce system transformation. New approaches should be reflected in plans and accomplishments should be

documented as this transformation process evolves.

DATES: Comments on the formula used to allot funds to the outlying areas must be received by June 12, 2009.

ADDRESSES: Submit written comments to the Employment and Training Administration, Office of Financial and Administrative Management, 200 Constitution Ave., NW., Room N-4702, Washington, DC 20210, *Attention:* Mr. Kenneth Leung, (202) 693-3471 (phone), (202) 693-2859 (fax), *e-mail:* Leung.Kenneth@dol.gov.

FOR FURTHER INFORMATION CONTACT: WIA Youth Activities allotments—Evan Rosenberg at (202) 693-3593 or LaSharn Youngblood at (202) 693-3606; WIA Adult and Dislocated Worker Activities, ES final allotments, and WOTC allotments—Mike Qualter at (202) 693-3014; Workforce Information Grant allotments—Anthony Dais at (202) 693-2784.

SUPPLEMENTARY INFORMATION: The Department of Labor (DOL or Department) is announcing WIA allotments for PY 2009 for Youth Activities, Adults and Dislocated Worker Activities, and Wagner-Peyser Act PY 2009 final allotments. This document provides information on the amount of funds available during PY 2009 to states with an approved WIA Title I and Wagner-Peyser Act Strategic Plan for PY 2009, and information regarding allotments to the outlying areas. The allotments are based on the funds appropriated in the Omnibus Appropriations Act 2009, Public Law 111-8, March 11, 2009. Attached are tables listing the PY 2009 allotments for programs under WIA Title I Youth Activities (Attachment I), Adult and Dislocated Workers Employment and Training Activities (Attachments II and III, respectively), additional assistance under Section 173(e) (Attachment IV), and the PY 2009 Wagner-Peyser Act final allotments (Attachment V). Also attached are the PY 2009 Workforce Information Grant table (Attachment VI) and the FY 2009 Work Opportunity Tax Credit allotment table (Attachment VII).

I. Youth Activities Allotments

PY 2009 Youth Activities funds under WIA total \$924,069,000. Attachment I includes a breakdown of the Youth Activities program allotments for PY 2009 and provides a comparison of these allotments to PY 2008 Youth Activities allotments for all states, outlying areas, Puerto Rico and the District of Columbia. Before determining the amount available for states, the total funding available for the outlying areas was reserved at 0.25 percent of the full

amount appropriated for Youth Activities. On December 17, 2003, the President signed Public Law 108–188, the *Compact of Free Association Amendments Act of 2003*, which provides for consolidation of all funding, including WIA Title I, for the Marshall Islands and Micronesia into supplemental funding grants in the Department of Education. The Department of Education's appropriations now include funding for these supplemental grants; therefore, WIA Title I funds are no longer being provided for these two areas. The Compact, as amended by the Consolidated Appropriations Act 2008, continues the availability of programs previously available to Palau through September 2009, including WIA Title I funding provisions. The methodology for distributing funds to all outlying areas is not specified by WIA, but is at the Secretary's discretion. The methodology used is the same as used since PY 2000, i.e., funds are distributed among the remaining areas by formula based on relative share of number of unemployed, a 90 percent hold-harmless of the prior year share, a \$75,000 minimum, and a 130 percent stop-gain of the prior year share. As in PY 2008, data for the relative share calculation in the PY 2009 formula were from 2000 Census data for all outlying areas, obtained from the Bureau of the Census (Bureau) and are based on 2000 Census surveys for those areas conducted either by the Bureau or the outlying areas under the guidance of the Bureau. The total amount available for Native Americans is 1.5 percent of the total amount for Youth Activities, in accordance with WIA section 127. After determining the amount for the outlying areas and Native Americans, the amount available for allotment to the states for PY 2009 is \$907,897,792. This total amount was below the required \$1 billion threshold specified in section 127(b)(1)(C)(iv)(IV); therefore, as in PY 2008, the WIA additional minimum provisions were not applied, and, instead, as required by WIA, the Job Training Partnership Act (JTPA) section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor were used. Also, as required by WIA, the provision applying a 130 percent stop-gain of the prior year allotment percentage was used. The three formula factors required in WIA use the following data for the PY 2009 allotments:

(1) Number of unemployed for Areas of Substantial Unemployment (ASUs), averages for the 12-month period, July 2007 through June 2008;

(2) Number of excess unemployed individuals or the ASU excess (depending on which is higher), averages for the same 12-month period used for ASU unemployed data; and

(3) Number of economically disadvantaged youth (age 16 to 21, excluding college students and military), from special 2000 Census calculations.

The ASU data for the PY 2009 allotments was identified by the states using special 2000 Census data based on households, obtained under Employment and Training Administration contract with the Census Bureau and provided to states by the Bureau of Labor Statistics.

II. Adult Employment and Training Activities Allotments

The total Adult Employment and Training Activities appropriation is \$861,540,000. Attachment II shows the PY 2009 Adult Employment and Training Activities allotments and comparison to PY 2008 allotments by state. Like the Youth Activities program, the total available for the outlying areas was reserved at 0.25 percent of the full amount appropriated for Adult Activities. As discussed in the Youth Activities paragraph, beginning in PY 2005, WIA funding for the Marshall Islands and Micronesia is no longer provided; instead, funding is provided in the Department of Education's appropriation. The Adult Activities funds for grants to the remaining outlying areas, for which the distribution methodology is at the Secretary's discretion, were distributed among the areas by the same principles, formula and data as used for outlying areas for Youth Activities. After determining the amount for the outlying areas, the amount available for allotments to the states is \$859,386,150. Like the Youth Activities program, the WIA minimum provisions were not applied for the PY 2009 allotments because the total amount available for the states was below the \$960 million threshold required for Adult Activities in section 132(b)(1)(B)(iv)(IV). Instead, as required by WIA, the minimum allotments were calculated using the JTPA section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor. Also, like the Youth Activities program, a provision applying a 130 percent stop-gain of the

prior year allotment percentage was used. The three formula factors use the same data as used for the PY 2008 Youth Activities formula, except that data from the 2000 Census for the number of economically disadvantaged adults (age 22 to 72, excluding college students and military) were used.

III. Dislocated Worker Employment and Training Activities Allotments

The total Dislocated Worker appropriation is \$1,466,891,000. The total appropriation includes formula funds for the states, while the National Reserve is used for National Emergency Grants, technical assistance and training, demonstration projects (including Community-Based Job Training Grants), the outlying areas' Dislocated Worker allotments, and additional assistance to eligible states. Attachment III shows the PY 2009 Dislocated Worker Activities fund allotments by state. Like the Youth and Adult Activities programs, the total available for the outlying areas was reserved at 0.25 percent of the full amount appropriated for Dislocated Worker Activities. WIA funding for the Marshall Islands and Micronesia is no longer provided, as discussed above. The Dislocated Worker Activities funds for grants to outlying areas, for which the distribution methodology is at the Secretary's discretion, were distributed among the remaining areas by the same pro rata share as the areas received for the PY 2009 WIA Adult Activities program, the same methodology used in PY 2008. For the state distribution of formula funds, the three formula factors required in WIA use the following data for the PY 2009 allotments:

(1) Number of unemployed, averages for calendar year 2008;

(2) Number of excess unemployed, averages for calendar year 2008; and

(3) Number of long-term unemployed, averages for calendar year 2008.

Since the Dislocated Worker Activities formula has no floor amount or hold-harmless provisions, funding changes for states directly reflect the impact of changes in the number of unemployed.

IV. Additional Funding From WIA Section 173(e) for Adult/Dislocated Worker Activities for Eligible States

WIA section 173(e) provides that up to \$15 million from Dislocated Workers National Reserve is to be made available annually to certain states that receive less funds under the WIA Adult Activities formula than they would have received had the JTPA Title II—A Adult program formula been in effect. The amount of the grants is based on the

difference between the WIA and JTPA formula allotments; funds are available for grants for up to eight states with the largest difference. The additional funding must be used for Adult or Dislocated Worker Activities. In PY 2009, three states are eligible for these additional funds, for a total of \$7,026,932 (Attachment IV).

V. Wagner-Peyser Act Final Allotments

The appropriated level for PY 2009 for ES grants totals \$703,576,000. After determining the funding for outlying areas, allotments to states were calculated using the formula set forth at section 6 of the Wagner-Peyser Act (29 U.S.C. 49e). PY 2009 formula allotments were based on each state's share of calendar year 2008 monthly averages of the civilian labor force (CLF) and unemployment. The Secretary of Labor is required to set aside up to three percent of the total available funds to assure that each state will have sufficient resources to maintain statewide employment service activities, as required under section 6(b)(4) of the Wagner-Peyser Act. In accordance with this provision, the three percent set-aside funds are included in the total allotment. The set-aside funds were distributed in two steps to states that have lost in relative share of resources from the previous year. In Step 1, states that have a CLF below one million and are also below the median CLF density were maintained at 100 percent of their relative share of prior year resources. All remaining set-aside funds were distributed on a pro-rata basis in Step 2 to all other states losing in relative share from the prior year but not meeting the size and density criteria for Step 1. The

distribution of Wagner-Peyser Act funds (Attachment V) includes \$701,860,926 for states, as well as \$1,715,074 for outlying areas.

Traditionally, a portion of Wagner-Peyser Act formula funds have been set aside in a reserve to pay centrally for states' postage costs associated with the conduct of labor exchange services. Beginning October 1, 2008, states and outlying areas were required to pay for their own postage costs with their formula grants. Consequently, beginning with PY 2008, there is no longer a postage reserve taken off the top from funds distributed by formula, and all funds are now distributed by formula. This provision continues in PY 2009.

Under section 7 of the Wagner-Peyser Act, 10 percent of the total sums allotted to each state shall be reserved for use by the Governor to provide performance incentives for ES offices, services for groups with special needs, and for the extra costs of exemplary models for delivering job services.

VI. Workforce Information Grants

Total PY 2009 funding for Workforce Information Grants to states is \$32,000,000. The allotment figures for each state are listed in Attachment VI. Funds are distributed by administrative formula, with a reserve of \$176,800 for Guam and the Virgin Islands. The remaining funds are distributed to the states with 40 percent distributed equally to all states and 60 percent distributed based on each state's share of CLF for the 12 months ending September 2008. As in the Wagner-Peyser program, there is no longer a postage reserve taken from funds distributed by formula. Instead, all

funds are distributed by formula and all states will use their formula grants to cover postage costs.

VII. Work Opportunity Tax Credit Program: Grants to States

Total funding for FY 2009 is \$18,520,000. After reserving \$20,000 for the Virgin Islands, funds were distributed to states by administrative formula with a \$66,000 minimum allotment and a 95 percent stop-loss/120 percent stop-gain from the prior year allotment share percentage. The allotment formula data factors and related percentages used are as follows:

(1) 50 percent based on each state's relative share of total FY 2008 certifications issued for the WOTC program;

(2) 30 percent based on each state's relative share of the CLF for twelve months ending September 2008; and

(3) 20 percent based on each state's relative share of the adult recipients of Temporary Assistance for Needy Families (TANF) for FY 2007.

The final distribution of WOTC funding includes \$18,500,000 for states and \$20,000 for the Virgin Islands. As in the Wagner-Peyser Act program, there is no longer a postage reserve taken from funds distributed by formula. Instead, all funds are distributed by formula and all states will use their formula grants to cover postage costs. The total allotment distribution by state is displayed in Attachment VII.

Signed at Washington, DC, on this 7th day of May 2009.

Douglas F. Small,

Deputy Assistant Secretary.

U.S. Department of Labor
Employment and Training Administration
WIA Youth Activities State Allotments
Comparison of PY 2009 vs PY 2008

Attachment I

State	PY 2008	PY 2009	Difference	% Difference
Total	\$924,069,465	\$924,069,000	(\$465)	0.00%
Alabama	10,066,414	9,059,768	(1,006,646)	-10.00%
Alaska	3,401,753	3,061,576	(340,177)	-10.00%
Arizona	15,410,351	13,869,309	(1,541,042)	-10.00%
Arkansas	10,427,807	9,385,022	(1,042,785)	-10.00%
California	131,478,160	145,161,310	13,683,150	10.41%
Colorado	10,263,091	9,236,777	(1,026,314)	-10.00%
Connecticut	7,422,406	8,583,204	1,160,798	15.64%
Delaware	2,269,746	2,269,744	(2)	0.00%
District of Columbia	3,430,967	3,087,869	(343,098)	-10.00%
Florida	25,652,600	33,348,363	7,695,763	30.00%
Georgia	20,223,508	24,394,229	4,170,721	20.62%
Hawaii	2,404,095	2,269,744	(134,351)	-5.59%
Idaho	2,290,478	2,269,744	(20,734)	-0.91%
Illinois	41,245,377	48,384,035	7,138,658	17.31%
Indiana	20,463,638	18,417,265	(2,046,373)	-10.00%
Iowa	4,091,704	4,023,109	(68,595)	-1.68%
Kansas	6,155,030	5,539,524	(615,506)	-10.00%
Kentucky	14,567,756	13,775,333	(792,423)	-5.44%
Louisiana	17,295,855	15,566,262	(1,729,593)	-10.00%
Maine	3,280,785	3,339,802	59,017	1.80%
Maryland	10,013,008	9,011,703	(1,001,305)	-10.00%
Massachusetts	21,466,585	19,319,917	(2,146,668)	-10.00%
Michigan	57,931,951	57,520,566	(411,385)	-0.71%
Minnesota	10,984,461	13,837,056	2,852,595	25.97%
Mississippi	15,536,771	14,535,436	(1,001,335)	-6.44%
Missouri	19,654,610	19,757,091	102,481	0.52%
Montana	2,269,746	2,269,744	(2)	0.00%
Nebraska	2,544,921	2,290,428	(254,493)	-10.00%
Nevada	4,529,527	5,888,382	1,358,855	30.00%
New Hampshire	2,269,746	2,269,744	(2)	0.00%
New Jersey	16,249,272	16,205,512	(43,760)	-0.27%
New Mexico	5,389,263	4,850,334	(538,929)	-10.00%
New York	54,654,801	55,635,768	980,967	1.79%
North Carolina	19,061,803	19,500,888	439,085	2.30%
North Dakota	2,269,746	2,269,744	(2)	0.00%
Ohio	48,535,694	43,682,103	(4,853,591)	-10.00%
Oklahoma	7,526,029	6,773,423	(752,606)	-10.00%
Oregon	13,022,777	11,720,493	(1,302,284)	-10.00%
Pennsylvania	32,746,691	31,617,301	(1,129,390)	-3.45%
Puerto Rico	36,693,982	33,024,567	(3,669,415)	-10.00%
Rhode Island	3,357,319	4,364,513	1,007,194	30.00%
South Carolina	21,357,908	19,222,108	(2,135,800)	-10.00%
South Dakota	2,269,746	2,269,744	(2)	0.00%
Tennessee	19,653,705	19,522,993	(130,712)	-0.67%
Texas	70,870,137	63,783,091	(7,087,046)	-10.00%
Utah	4,379,351	3,941,414	(437,937)	-10.00%
Vermont	2,269,746	2,269,744	(2)	0.00%
Virginia	9,462,211	10,098,341	636,130	6.72%
Washington	20,263,008	18,236,698	(2,026,310)	-10.00%
West Virginia	4,618,029	4,156,224	(461,805)	-10.00%
Wisconsin	11,934,438	10,740,989	(1,193,449)	-10.00%
Wyoming	2,269,746	2,269,744	(2)	0.00%
State Total	907,898,249	907,897,792	(457)	0.00%
American Samoa	131,813	131,813	0	0.00%
Guam	1,072,924	1,072,924	0	0.00%
Northern Marianas	397,036	397,035	(1)	0.00%
Palau	75,000	75,000	0	0.00%
Virgin Islands	633,401	633,401	0	0.00%
Outlying Areas Total	2,310,174	2,310,173	(1)	0.00%
Native Americans	13,861,042	13,861,035	(7)	0.00%

U.S. Department of Labor
Employment and Training Administration
WIA Adult Activities State Allotments
Comparison of PY 2009 vs PY 2008

Attachment II

State	PY 2008	PY 2009	Difference	% Difference
Total	\$861,540,083	\$861,540,000	(\$83)	0.00%
Alabama	9,868,607	8,881,745	(986,862)	-10.00%
Alaska	3,247,854	2,923,068	(324,786)	-10.00%
Arizona	14,729,041	13,256,136	(1,472,905)	-10.00%
Arkansas	9,810,398	8,829,357	(981,041)	-10.00%
California	126,947,190	139,444,084	12,496,894	9.84%
Colorado	9,267,816	8,341,034	(926,782)	-10.00%
Connecticut	6,553,866	7,632,284	1,078,418	16.45%
Delaware	2,148,466	2,148,465	(1)	0.00%
District of Columbia	2,983,848	2,685,463	(298,385)	-10.00%
Florida	26,037,659	33,848,953	7,811,294	30.00%
Georgia	18,958,899	22,833,446	3,874,547	20.44%
Hawaii	2,361,767	2,148,465	(213,302)	-9.03%
Idaho	2,148,466	2,148,465	(1)	0.00%
Illinois	38,269,186	44,888,169	6,618,983	17.30%
Indiana	18,165,758	16,349,181	(1,816,577)	-10.00%
Iowa	3,006,852	2,706,167	(300,685)	-10.00%
Kansas	5,225,628	4,703,065	(522,563)	-10.00%
Kentucky	15,059,258	14,258,220	(801,038)	-5.32%
Louisiana	16,831,051	15,147,944	(1,683,107)	-10.00%
Maine	3,100,278	3,146,947	46,669	1.51%
Maryland	9,494,842	8,545,357	(949,485)	-10.00%
Massachusetts	19,481,186	17,533,066	(1,948,120)	-10.00%
Michigan	54,246,181	53,707,324	(538,857)	-0.99%
Minnesota	9,410,768	12,099,930	2,689,162	28.58%
Mississippi	14,486,102	13,528,436	(957,666)	-6.61%
Missouri	18,196,254	18,243,831	47,577	0.26%
Montana	2,148,466	2,148,465	(1)	0.00%
Nebraska	2,148,466	2,148,465	(1)	0.00%
Nevada	4,541,567	5,904,037	1,362,470	30.00%
New Hampshire	2,148,466	2,148,465	(1)	0.00%
New Jersey	16,435,003	16,336,946	(98,057)	-0.60%
New Mexico	5,143,687	4,629,318	(514,369)	-10.00%
New York	53,779,185	54,853,314	1,074,129	2.00%
North Carolina	17,815,089	17,991,679	176,590	0.99%
North Dakota	2,148,466	2,148,465	(1)	0.00%
Ohio	45,226,257	40,703,627	(4,522,630)	-10.00%
Oklahoma	7,058,963	6,353,066	(705,897)	-10.00%
Oregon	12,236,847	11,013,161	(1,223,686)	-10.00%
Pennsylvania	29,938,257	28,797,617	(1,140,640)	-3.81%
Puerto Rico	38,358,961	35,033,711	(3,325,250)	-8.67%
Rhode Island	2,820,312	3,666,405	846,093	30.00%
South Carolina	20,145,575	18,131,016	(2,014,559)	-10.00%
South Dakota	2,148,466	2,148,465	(1)	0.00%
Tennessee	19,041,647	18,859,653	(181,994)	-0.96%
Texas	66,418,400	59,776,554	(6,641,846)	-10.00%
Utah	3,477,402	3,129,661	(347,741)	-10.00%
Vermont	2,148,466	2,148,465	(1)	0.00%
Virginia	8,520,288	9,098,617	578,329	6.79%
Washington	18,747,476	16,872,727	(1,874,749)	-10.00%
West Virginia	4,579,923	4,194,765	(385,158)	-8.41%
Wisconsin	10,024,911	9,022,419	(1,002,492)	-10.00%
Wyoming	2,148,466	2,148,465	(1)	0.00%
State Total	859,386,233	859,386,150	(83)	0.00%
American Samoa	122,595	122,595	0	0.00%
Guam	997,885	997,885	0	0.00%
Northern Marianas	369,268	369,268	0	0.00%
Palau	75,000	75,000	0	0.00%
Virgin Islands	589,102	589,102	0	0.00%
Outlying Areas Total	2,153,850	2,153,850	0	0.00%

U.S. Department of Labor
Employment and Training Administration
WIA Dislocated Worker Activities State Allotments
Comparison of PY 2009 vs PY 2008

Attachment III

State	PY 2008	PY 2009	Difference	% Difference
Total	\$1,464,707,055	\$1,466,891,000	\$2,183,945	0.15%
Alabama	9,164,775	12,621,558	3,456,783	37.72%
Alaska	6,262,335	3,392,665	(2,869,670)	-45.82%
Arizona	11,442,222	16,648,405	5,206,183	45.50%
Arkansas	13,518,488	7,192,470	(6,326,018)	-46.80%
California	168,253,920	212,284,647	44,030,727	26.17%
Colorado	11,038,608	13,837,694	2,799,086	25.36%
Connecticut	8,981,716	14,238,672	5,256,956	58.53%
Delaware	1,857,536	1,950,897	93,361	5.03%
District of Columbia	4,969,649	3,628,361	(1,341,288)	-26.99%
Florida	31,390,061	77,059,075	45,669,014	145.49%
Georgia	23,975,835	41,902,519	17,926,684	74.77%
Hawaii	1,543,697	2,067,480	523,783	33.93%
Idaho	2,015,620	2,709,982	694,362	34.45%
Illinois	46,802,246	65,561,923	18,759,677	40.08%
Indiana	23,517,230	25,076,767	1,559,537	6.63%
Iowa	5,897,698	4,999,095	(898,603)	-15.24%
Kansas	6,724,398	4,978,239	(1,746,159)	-25.97%
Kentucky	27,195,336	17,901,696	(9,293,640)	-34.17%
Louisiana	9,714,609	8,857,065	(857,544)	-8.83%
Maine	3,640,936	4,373,817	732,881	20.13%
Maryland	12,572,045	10,767,103	(1,804,942)	-14.36%
Massachusetts	28,504,646	20,303,163	(8,201,483)	-28.77%
Michigan	130,811,617	75,050,239	(55,761,378)	-42.63%
Minnesota	12,968,820	20,054,286	7,085,466	54.63%
Mississippi	27,431,802	13,594,096	(13,837,706)	-50.44%
Missouri	25,404,238	24,710,779	(693,459)	-2.73%
Montana	1,584,735	1,679,893	95,158	6.00%
Nebraska	3,186,136	2,478,758	(707,378)	-22.20%
Nevada	5,820,504	13,691,153	7,870,649	135.22%
New Hampshire	2,745,638	2,393,494	(352,144)	-12.83%
New Jersey	23,874,619	31,288,216	7,413,597	31.05%
New Mexico	3,650,372	2,832,500	(817,872)	-22.41%
New York	50,790,224	63,490,356	12,700,132	25.01%
North Carolina	33,828,640	42,493,181	8,664,541	25.61%
North Dakota	1,171,809	876,713	(295,096)	-25.18%
Ohio	79,971,002	55,974,110	(23,996,892)	-30.01%
Oklahoma	7,326,043	5,762,276	(1,563,767)	-21.35%
Oregon	20,499,936	16,418,257	(4,081,679)	-19.91%
Pennsylvania	32,959,310	40,639,918	7,680,608	23.30%
Puerto Rico	69,218,517	28,244,122	(40,974,395)	-59.20%
Rhode Island	4,600,258	7,601,362	3,001,104	65.24%
South Carolina	37,862,826	23,633,802	(14,229,024)	-37.58%
South Dakota	1,459,759	912,475	(547,284)	-37.49%
Tennessee	18,786,071	27,141,982	8,355,911	44.48%
Texas	57,630,386	51,436,825	(6,193,561)	-10.75%
Utah	3,106,955	3,383,375	276,420	8.90%
Vermont	1,469,673	1,673,255	203,582	13.85%
Virginia	12,727,010	13,503,287	776,277	6.10%
Washington	22,166,920	21,181,897	(985,023)	-4.44%
West Virginia	5,214,464	3,424,387	(1,790,077)	-34.33%
Wisconsin	25,748,373	15,363,236	(10,385,137)	-40.33%
Wyoming	839,299	558,477	(280,822)	-33.46%
State Total	1,183,839,562	1,183,840,000	438	0.00%
American Samoa	208,423	208,735	312	0.15%
Guam	1,696,508	1,699,037	2,529	0.15%
Northern Marianas	627,794	628,730	936	0.15%
Palau	127,508	127,698	190	0.15%
Virgin Islands	1,001,535	1,003,028	1,493	0.15%
Outlying Areas Total	3,661,768	3,667,228	5,460	0.15%
National Reserve	277,205,725	279,383,772	2,178,047	0.79%

U.S. Department of Labor
Employment and Training Administration

Attachment IV

**Additional PY 2009 Funding from Dislocated Worker National Emergency Reserve
for Adult/Dislocated Worker Activities for Eligible States**

** Per WIA Sec. 173(e): Up to \$15 million from Dislocated Workers Emergency reserve is to be made available to not more than 8 States with the largest ratio of JTPA formula amount to WIA formula amount.*

State	WIA	JTPA	JTPA less		Eligible *	Additional \$*
	Calculation	Calculation	WIA	Quotient		
Total	\$859,386,150	\$859,256,143	(\$130,007)		3	\$7,026,932
Alabama	8,881,745	8,880,402	(1,343)	99.9849%		
Alaska	2,923,068	2,922,626	(442)	99.9849%		
Arizona	13,256,136	13,254,130	(2,006)	99.9849%		
Arkansas	8,829,357	8,828,022	(1,335)	99.9849%		
California	139,444,084	137,518,373	(1,925,711)	98.6190%		
Colorado	8,341,034	8,339,772	(1,262)	99.9849%		
Connecticut	7,632,284	7,526,884	(105,400)	98.6190%		
Delaware	2,148,465	2,148,140	(325)	99.9849%		
District of Columbia	2,685,463	2,685,057	(406)	99.9849%		
Florida	33,848,953	39,862,635	6,013,682	117.7662%	1	6,013,682
Georgia	22,833,446	22,518,118	(315,328)	98.6190%		
Hawaii	2,148,465	2,148,140	(325)	99.9849%		
Idaho	2,148,465	2,148,140	(325)	99.9849%		
Illinois	44,888,169	44,268,267	(619,902)	98.6190%		
Indiana	16,349,181	16,346,707	(2,474)	99.9849%		
Iowa	2,706,167	2,705,757	(410)	99.9848%		
Kansas	4,703,065	4,702,353	(712)	99.9849%		
Kentucky	14,258,220	14,061,315	(196,905)	98.6190%		
Louisiana	15,147,944	15,145,653	(2,291)	99.9849%		
Maine	3,146,947	3,103,488	(43,459)	98.6190%		
Maryland	8,545,357	8,544,064	(1,293)	99.9849%		
Massachusetts	17,533,066	17,530,413	(2,653)	99.9849%		
Michigan	53,707,324	52,965,631	(741,693)	98.6190%		
Minnesota	12,099,930	11,932,830	(167,100)	98.6190%		
Mississippi	13,528,436	13,341,609	(186,827)	98.6190%		
Missouri	18,243,831	17,991,885	(251,946)	98.6190%		
Montana	2,148,465	2,148,140	(325)	99.9849%		
Nebraska	2,148,465	2,148,140	(325)	99.9849%		
Nevada	5,904,037	6,653,934	749,897	112.7014%	1	749,897
New Hampshire	2,148,465	2,148,140	(325)	99.9849%		
New Jersey	16,336,946	16,111,334	(225,612)	98.6190%		
New Mexico	4,629,318	4,628,618	(700)	99.9849%		
New York	54,853,314	54,095,795	(757,519)	98.6190%		
North Carolina	17,991,679	17,743,216	(248,463)	98.6190%		
North Dakota	2,148,465	2,148,140	(325)	99.9849%		
Ohio	40,703,627	40,697,470	(6,157)	99.9849%		
Oklahoma	6,353,066	6,352,105	(961)	99.9849%		
Oregon	11,013,161	11,011,495	(1,666)	99.9849%		
Pennsylvania	28,797,617	28,399,924	(397,693)	98.6190%		
Puerto Rico	35,033,711	34,549,898	(483,813)	98.6190%		
Rhode Island	3,666,405	3,929,758	263,353	107.1829%	1	263,353
South Carolina	18,131,016	18,128,273	(2,743)	99.9849%		
South Dakota	2,148,465	2,148,140	(325)	99.9849%		
Tennessee	18,859,653	18,599,203	(260,450)	98.6190%		
Texas	59,776,554	59,767,511	(9,043)	99.9849%		
Utah	3,129,661	3,129,188	(473)	99.9849%		
Vermont	2,148,465	2,148,140	(325)	99.9849%		
Virginia	9,098,617	8,972,966	(125,651)	98.6190%		
Washington	16,872,727	16,870,174	(2,553)	99.9849%		
West Virginia	4,194,765	4,136,836	(57,929)	98.6190%		
Wisconsin	9,022,419	9,021,054	(1,365)	99.9849%		
Wyoming	2,148,465	2,148,140	(325)	99.9849%		

U. S. Department of Labor
Employment and Training Administration
Employment Service (Wagner-Peyser)
PY 2009 Final vs PY 2008 Final Allotments

Attachment V

State	Final PY 2008	Final PY 2009	Difference	% Difference
Total	\$703,376,524	\$703,576,000	\$199,476	0.03%
Alabama	9,274,795	9,048,957	(225,838)	-2.43%
Alaska	7,646,039	7,648,207	2,168	0.03%
Arizona	12,160,434	12,477,755	317,321	2.61%
Arkansas	6,097,500	5,880,640	(216,860)	-3.56%
California	80,393,798	83,452,931	3,059,133	3.81%
Colorado	10,962,418	11,037,674	75,256	0.69%
Connecticut	7,829,751	7,905,625	75,874	0.97%
Delaware	1,964,653	1,965,210	557	0.03%
District of Columbia	2,666,470	2,536,120	(130,350)	-4.89%
Florida	36,484,397	39,347,985	2,863,588	7.85%
Georgia	20,131,714	20,807,886	676,172	3.36%
Hawaii	2,567,092	2,534,022	(33,070)	-1.29%
Idaho	6,370,511	6,372,318	1,807	0.03%
Illinois	29,255,214	29,435,140	179,926	0.62%
Indiana	14,185,321	13,961,618	(223,703)	-1.58%
Iowa	6,822,494	6,620,728	(201,766)	-2.96%
Kansas	6,313,418	6,106,309	(207,109)	-3.28%
Kentucky	9,330,822	9,142,999	(187,823)	-2.01%
Louisiana	9,697,828	9,223,752	(474,076)	-4.89%
Maine	3,788,482	3,789,556	1,074	0.03%
Maryland	12,124,203	11,883,400	(240,803)	-1.99%
Massachusetts	14,704,420	14,326,399	(378,021)	-2.57%
Michigan	25,087,225	24,621,640	(465,585)	-1.86%
Minnesota	12,340,429	12,250,556	(89,873)	-0.73%
Mississippi	6,745,907	6,427,984	(317,923)	-4.71%
Missouri	13,316,098	13,146,226	(169,872)	-1.28%
Montana	5,206,014	5,207,490	1,476	0.03%
Nebraska	6,256,606	6,258,380	1,774	0.03%
Nevada	5,753,058	6,167,234	414,176	7.20%
New Hampshire	2,925,586	2,873,239	(52,347)	-1.79%
New Jersey	19,156,383	18,943,556	(212,827)	-1.11%
New Mexico	5,842,063	5,843,720	1,657	0.03%
New York	41,433,656	40,607,026	(826,630)	-2.00%
North Carolina	19,216,352	19,706,162	489,810	2.55%
North Dakota	5,301,280	5,302,783	1,503	0.03%
Ohio	26,981,411	26,681,937	(299,474)	-1.11%
Oklahoma	7,243,494	6,951,895	(291,599)	-4.03%
Oregon	8,868,797	8,702,863	(165,934)	-1.87%
Pennsylvania	27,184,396	26,826,020	(358,376)	-1.32%
Puerto Rico	8,668,212	8,253,932	(414,280)	-4.78%
Rhode Island	2,550,164	2,661,374	111,210	4.36%
South Carolina	10,173,257	9,957,757	(215,500)	-2.12%
South Dakota	4,899,601	4,900,991	1,390	0.03%
Tennessee	13,124,545	13,173,347	48,802	0.37%
Texas	49,518,743	48,305,269	(1,213,474)	-2.45%
Utah	8,030,744	7,638,164	(392,580)	-4.89%
Vermont	2,295,252	2,295,903	651	0.03%
Virginia	15,191,777	15,659,584	467,807	3.08%
Washington	14,814,472	14,623,623	(190,849)	-1.29%
West Virginia	5,608,077	5,609,667	1,590	0.03%
Wisconsin	13,355,215	12,954,947	(400,268)	-3.00%
Wyoming	3,801,348	3,802,426	1,078	0.03%
State Total	701,661,936	701,860,926	198,990	0.03%
Guam	329,126	329,219	93	0.03%
Virgin Islands	1,385,462	1,385,855	393	0.03%
Outlying Areas Total	1,714,588	1,715,074	486	0.03%

U. S. Department of Labor
Employment and Training Administration
Workforce Information Grants to States
PY 2009 vs PY 2008 Allotments

Attachment VI

State	PY 2008	PY 2009	Difference	% Difference
Total	\$31,863,448	\$32,000,000	\$136,552	0.43%
Alabama	517,479	513,199	(4,280)	-0.83%
Alaska	286,532	288,558	2,026	0.71%
Arizona	616,560	626,020	9,460	1.53%
Arkansas	413,079	413,813	734	0.18%
California	2,478,254	2,507,217	28,963	1.17%
Colorado	573,969	583,382	9,413	1.64%
Connecticut	473,938	476,002	2,064	0.44%
Delaware	298,422	299,219	797	0.27%
District of Columbia	283,018	285,208	2,190	0.77%
Florida	1,374,721	1,388,142	13,421	0.98%
Georgia	838,696	842,605	3,909	0.47%
Hawaii	323,871	325,132	1,261	0.39%
Idaho	337,015	338,097	1,082	0.32%
Illinois	1,069,456	1,070,081	625	0.06%
Indiana	644,569	642,235	(2,334)	-0.36%
Iowa	448,792	451,190	2,398	0.53%
Kansas	425,973	427,610	1,637	0.38%
Kentucky	497,690	495,574	(2,116)	-0.43%
Louisiana	490,060	494,844	4,784	0.98%
Maine	331,693	332,053	360	0.11%
Maryland	615,226	612,613	(2,613)	-0.42%
Massachusetts	664,696	662,375	(2,321)	-0.35%
Michigan	867,507	855,176	(12,331)	-1.42%
Minnesota	607,538	606,203	(1,335)	-0.22%
Mississippi	406,084	407,221	1,137	0.28%
Missouri	620,388	615,454	(4,934)	-0.80%
Montana	305,158	306,660	1,502	0.49%
Nebraska	364,663	366,425	1,762	0.48%
Nevada	408,405	414,616	6,211	1.52%
New Hampshire	335,465	335,737	272	0.08%
New Jersey	798,971	796,139	(2,832)	-0.35%
New Mexico	359,736	361,891	2,155	0.60%
New York	1,410,985	1,420,420	9,435	0.67%
North Carolina	801,477	805,049	3,572	0.45%
North Dakota	288,534	290,398	1,864	0.65%
Ohio	980,145	982,778	2,633	0.27%
Oklahoma	457,593	459,625	2,032	0.44%
Oregon	480,629	484,917	4,288	0.89%
Pennsylvania	1,019,875	1,027,599	7,724	0.76%
Puerto Rico	416,785	412,752	(4,033)	-0.97%
Rhode Island	314,993	315,475	482	0.15%
South Carolina	508,915	508,829	(86)	-0.02%
South Dakota	297,541	299,586	2,045	0.69%
Tennessee	617,264	621,026	3,762	0.61%
Texas	1,667,706	1,680,566	12,860	0.77%
Utah	408,862	415,279	6,417	1.57%
Vermont	288,250	288,282	32	0.01%
Virginia	742,865	748,577	5,712	0.77%
Washington	659,818	671,927	12,109	1.84%
West Virginia	344,123	344,271	148	0.04%
Wisconsin	623,722	624,534	812	0.13%
Wyoming	279,270	280,619	1,349	0.48%
State Total	31,686,976	31,823,200	136,224	0.43%
Guam	92,716	92,899	183	0.20%
Virgin Islands	83,756	83,901	145	0.17%
Outlying Areas Total	176,472	176,800	328	0.19%

U. S. Department of Labor
Employment and Training Administration
Work Opportunity Tax Credits
FY 2009 vs FY 2008 State Allotments

Attachment VII

State	FY 2008	FY 2009	Difference	% Difference
Total	\$17,368,183	\$18,520,000	\$1,151,817	6.6%
Alabama	252,718	256,022	3,304	1.3%
Alaska	66,000	66,863	863	1.3%
Arizona	258,517	330,817	72,300	28.0%
Arkansas	242,829	246,004	3,175	1.3%
California	1,897,525	2,216,782	319,257	16.8%
Colorado	218,526	221,383	2,857	1.3%
Connecticut	193,086	207,995	14,909	7.7%
Delaware	66,000	66,863	863	1.3%
District of Columbia	66,000	66,863	863	1.3%
Florida	672,782	860,941	188,159	28.0%
Georgia	386,637	487,655	101,018	26.1%
Hawaii	66,000	66,863	863	1.3%
Idaho	66,000	66,863	863	1.3%
Illinois	796,206	806,616	10,410	1.3%
Indiana	522,297	529,126	6,829	1.3%
Iowa	232,924	273,356	40,432	17.4%
Kansas	152,605	181,871	29,266	19.2%
Kentucky	271,620	292,248	20,628	7.6%
Louisiana	395,674	400,847	5,173	1.3%
Maine	77,713	78,729	1,016	1.3%
Maryland	315,644	319,771	4,127	1.3%
Massachusetts	318,416	322,579	4,163	1.3%
Michigan	667,446	676,172	8,726	1.3%
Minnesota	265,290	281,314	16,024	6.0%
Mississippi	172,342	174,595	2,253	1.3%
Missouri	503,453	510,035	6,582	1.3%
Montana	66,000	66,863	863	1.3%
Nebraska	140,605	142,443	1,838	1.3%
Nevada	96,435	101,666	5,231	5.4%
New Hampshire	66,000	66,863	863	1.3%
New Jersey	475,585	481,803	6,218	1.3%
New Mexico	155,598	157,632	2,034	1.3%
New York	972,546	985,261	12,715	1.3%
North Carolina	519,855	526,652	6,797	1.3%
North Dakota	66,000	66,863	863	1.3%
Ohio	836,277	847,211	10,934	1.3%
Oklahoma	163,048	208,648	45,600	28.0%
Oregon	171,287	219,191	47,904	28.0%
Pennsylvania	664,924	673,617	8,693	1.3%
Puerto Rico	97,989	99,270	1,281	1.3%
Rhode Island	67,420	68,301	881	1.3%
South Carolina	173,752	176,024	2,272	1.3%
South Dakota	66,000	72,171	6,171	9.4%
Tennessee	737,428	747,069	9,641	1.3%
Texas	1,276,601	1,293,292	16,691	1.3%
Utah	126,624	128,280	1,656	1.3%
Vermont	66,000	66,863	863	1.3%
Virginia	354,090	358,720	4,630	1.3%
Washington	389,674	475,991	86,317	22.2%
West Virginia	132,355	134,085	1,730	1.3%
Wisconsin	255,840	259,185	3,345	1.3%
Wyoming	66,000	66,863	863	1.3%
State Total	17,348,183	18,500,000	1,151,817	6.6%
Virgin Islands	20,000	20,000	0	0.0%

[FR Doc. E9-11103 Filed 5-12-09; 8:45 am]

BILLING CODE 4510-FN-C

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA)

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before June 12, 2009 to be assured of consideration.

ADDRESSES: Send comments to Mr. Nicholas A. Fraser, Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202-395-5167; or electronically mailed to Nicholas_A_Fraser@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301-837-1694 or fax number 301-713-7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on March 4, 2009 (74 FR 9307). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (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 the use of information technology; and (e) whether small businesses are affected by this

collection. In this notice, NARA is soliciting comments concerning the following information collection:
Title: Financial Disclosure Report.
OMB Number: 3095-0058.
Agency Form Number: Standard Form 714.

Type of Review: Regular.
Affected Public: Business or other for-profit, Federal government.
Estimated Number of Respondents: 25,897.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion.
Estimated Total Annual Burden Hours: 51,794 hours.

Abstract: Executive Order 12958, as amended, "Classified National Security Information" authorizes the Information Security Oversight Office to develop standard forms that promote the implementation of the Government's security classification program. These forms promote consistency and uniformity in the protection of classified information.

The Financial Disclosure Report contains information that is used to assist in making eligibility determinations for access to specifically designated classified information pursuant to Executive Order 12968, "Access to Classified Information," by appropriately trained adjudicative personnel. The data may later be used as part of a review process to evaluate continued eligibility for access to such specifically designated classified information or as evidence in legal proceedings.

The Financial Disclosure Report helps law enforcement entities obtain pertinent information in the preliminary stages of potential espionage and counterterrorism cases.

Dated: May 7, 2009.

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E9-11253 Filed 5-12-09; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed

information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before June 12, 2009 to be assured of consideration.

ADDRESSES: Send comments to Mr. Nicholas A. Fraser, Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202-395-5167; or electronically mailed to Nicholas_A_Fraser@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301-837-1694 or fax number 301-713-7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on March 3, 2009 (74 FR 9307 and 9308). No comments were received. NARA has submitted the described information collections to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (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 the use of information technology; and (e) whether small businesses are affected by these collections. In this notice, NARA is soliciting comments concerning the following information collections:

1. *Title:* National Personnel Records Center (NPRC) Survey of Customer Satisfaction.

OMB number: 3095-0042.

Agency form number: N/A.

Type of review: Regular.

Affected public: Federal, State and local government agencies, veterans, and individuals who write the Military Personnel Records (MPR) facility for information from or copies of official military personnel files.

Estimated number of respondents: 1,000.

Estimated time per response: 10 minutes.

Frequency of response: On occasion (when respondent writes to MPR requesting information from official military personnel files).

Estimated total annual burden hours: 167 hours.

Abstract: The information collection is prescribed by EO 12862 issued September 11, 1993, which requires Federal agencies to survey their customers concerning customer service. The general purpose of this data collection is to provide MPR management with an ongoing mechanism for monitoring customer satisfaction. In particular, the purpose of the National Personnel Records Center (NPRC) Survey of Customer Satisfaction is to (1) determine customer satisfaction with MPR's reference service process, (2) identify areas within the reference service process for improvement, and (3) provide MPR management with customer feedback on the effectiveness of BPR initiatives designed to improve customer service as they are implemented. In addition to supporting the BPR effort, the National Personnel Records Center (NPRC) Survey of Customer Satisfaction helps NARA in responding to performance planning and reporting requirements contained in the Government Performance and Results Act (GPRA).

2. *Title:* Presidential Libraries Museum Visitor Survey.

OMB number: 3095-0066.

Agency form number: N/A.

Type of review: Regular.

Affected public: Individuals who visit the museums at the Presidential libraries.

Estimated number of respondents: 75,000.

Estimated time per response: 15 minutes.

Frequency of response: On occasion (when an individual visits a Presidential Library).

Estimated total annual burden hours: 18,750 hours.

Abstract: The survey is comprised of a set of questions designed to allow for a statistical analysis that will ultimately provide actionable information to NARA. The survey includes questions that measure the visitor's satisfaction in general and with specific aspects of their visit. These questions serve as dependent variables for analytical purposes. Other questions provide attitudinal, behavioral, and demographic data that are used to help understand variation in the satisfaction variables. Using statistical analyses, Harris Interactive will determine the factors that drive the visitor's perceptions of quality and satisfaction with the Library they visited.

Additionally, natural groupings of visitors defined by similarity based on these attitudinal, behavioral, and demographic variables can be developed and targeted for outreach purposes. The information collected through this effort will inform program activity, operation, and oversight, and will benefit Library and NARA staff and management in making critical decisions about resources allocation, museum operation and program direction.

Dated: May 7, 2009

Martha Morphy,

Assistant Archivist for Information Services.

[FR Doc. E9-11255 Filed 5-12-09; 8:45 am]

BILLING CODE 7515-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2009-0138]

Proposed Generic Communication; Pre-Licensing Construction Activities at Proposed, Unlicensed Uranium Recovery Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed generic communication: Reopening of public comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is reopening the comment period specific to the information collection aspects of a proposed regulatory issue summary (RIS) published on March 27, 2009 (74 FR 13483), which presents the NRC's interpretation of the regulations governing the commencement of construction found in 10 CFR 40.32(e). The comment period for this proposed RIS closed on April 27, 2009.

DATES: Comment period expires May 15, 2009. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to the Chief, Uranium Recovery Licensing Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Mail Stop T-8F5, Washington, DC 20555-0001, and cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to NRC Headquarters, 11545 Rockville Pike (Room T-8F5), Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen J. Cohen at 301-415-7182 or by e-mail at stephen.cohen@nrc.gov.

ADDRESSES: All holders of operating licenses for uranium recovery facilities and all companies that have submitted applications to construct new uranium recovery facilities of all types (conventional mills, heap leach, and in situ recovery (ISR) facilities) or letters of intent to submit such applications.

Intent

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to inform addressees of the NRC's policy regarding the permissible construction activities at proposed, unlicensed uranium recovery facilities. The NRC is issuing this RIS in response to industry inquiries regarding the activities that applicants may undertake prior to receiving a license.

SUPPLEMENTARY INFORMATION: In relation to the applications for new uranium recovery facilities currently under review and those applications expected over the next several years, the NRC has been queried by the uranium recovery industry about those construction activities that would be permissible at proposed uranium recovery facilities before a license is granted. The industry has requested information on permissible construction activities, including the potential use of limited work authorizations (LWAs) as provided in the reactor program, in the interest of minimizing the lead time from receipt of a license to the initiation of uranium recovery operations.

The NRC's regulations in 10 CFR 40.32(e) prohibits the commencement of construction of a uranium recovery facility until a license is issued.

Moreover, commencement of construction prior to the issuance of a license would be grounds for denial of a license. "Commencement of construction" includes any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. However, the rule does permit site exploration, construction of roads necessary for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values. These activities may be conducted before a license is granted.

According to industry, ISR applicants, therefore, should be allowed to build out most of the facilities without a license, utilizing a tiered system of

activities. Tier 1 includes activities for which NRC would have no jurisdiction. Tier 2 activities would include those requiring NRC approval, but not a license. Tier 3 activities would not occur until a license is issued and would include construction of the evaporation ponds and actual operations.

Dated at Rockville, Maryland, this 29th day of April 2009.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E9-11201 Filed 5-12-09; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Comment Request for Review of Information Collection: Agency Generic Survey Plan OMB #3206-0236

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. The agency Generic Survey Plan is an umbrella for all OPM customer satisfaction surveys used to measure satisfaction with OPM programs and services. This Plan satisfies the requirements of Executive Order 12862 and the guidelines set forth in OMB's "Resource Manual for Customer Surveys".

The information collection was previously published in the **Federal Register** on March 14, 2008, at 73 FR 13925 allowing for a 60-day public comment period. No comments were received on this existing information collection. The purpose of this notice is to allow an additional 30 days for public comments. Comments are particularly invited on: Whether this information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who

are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

The collections will include web-based (electronic), paper-based, telephone and focus groups surveys. We estimate approximately 1,000,000 surveys will be completed annually. The time estimate varies from 3 minutes to 2 hours to complete with the average being 15 minutes. The annual estimated burden is 250,000 hours.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to: OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10236, Washington, DC 20503.

Please provide your mailing address or Fax number with your request.

Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9-11194 Filed 5-12-09; 8:45 am]

BILLING CODE 6325-47-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11732 and #11733]

Florida Disaster Number FL-00040

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA-1831-DR), dated 04/28/2009.

Incident: Severe Storms, Flooding, Tornadoes, and Straight-line Winds.

Incident Period: 03/26/2009 and continuing.

Effective Date: 05/01/2009.

Physical Loan Application Deadline Date: 06/29/2009.

EIDL Loan Application Deadline Date: 01/28/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Florida, dated 04/28/

2009 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Dixie, Gilchrist.

Contiguous Counties: (Economic Injury Loans Only):

Florida: Alachua, Levy.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-11033 Filed 5-12-09; 8:45 am]

BILLING CODE 8025-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59880; File No. SR-FINRA-2007-009]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Modernize and Simplify NASD Rule 2720

May 7, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 6, 2007, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission"), and amended on May 1, 2009,³ the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. 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

FINRA is proposing to modernize and simplify NASD Rule 2720 (Distributions of Securities of Members and Affiliates—Conflicts of Interest) ("Rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ This Amendment No. 1 to SR-FINRA-2007-009 replaces and supersedes the original filing submitted on September 6, 2007, except with regard to Exhibit 2 (NASD Notice to Members 06-52 and comments received in response to NASD Notice to Members 06-52).

2720” or “Rule”), which governs public offerings of securities in which a member with a conflict of interest participates, and make corresponding changes to FINRA Rule 5110 (Corporate Financing Rule) (“Rule 5110”).

Amendment No. 1 to SR-FINRA-2007-009 makes certain changes to the original filing of September 6, 2007 to address the Commission staff’s comments. The proposed rule change replaces and supersedes the proposed rule change filed on September 6, 2007 in its entirety, except with regard to Exhibit 2, NASD *Notice to Members* 06-52 and comments received in response to NASD *Notice to Members* 06-52.

The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

Rule 2720 governs public offerings of securities issued by participating members or their affiliates, public offerings in which a member or any of its associated persons or affiliates has a conflict of interest, and public offerings that result in a member becoming a public company. The Rule regulates the potential conflicts of interest that exist with respect to the pricing of such offerings and the conduct of due diligence when a member participates in such offerings.

In September 2006, FINRA published NASD *Notice to Members* 06-52 requesting comment on proposed amendments to Rule 2720 (the “original proposal”). FINRA received two comment letters that generally supported the proposal and recognized the need to modernize the Rule.⁴

However, in response to the comments received, FINRA staff made certain revisions to the original proposal in its September 6, 2007 filing with the Commission. In order to address Commission staff’s comments, FINRA filed Amendment No. 1 to SR-FINRA-2007-009 on May 1, 2009.

The proposed rule change would replace the current Rule in its entirety with proposed Rule 2720 entitled “Public Offerings of Securities With Conflicts of Interest.” Some of the more significant amendments that FINRA is proposing in this proposed rule change are to: (1) Exempt from the filing and qualified independent underwriter (“QIU”) requirements public offerings of investment grade rated securities, public offerings of securities that have a bona fide public market, and public offerings in which the member primarily responsible for managing the offering does not have a conflict of interest and can meet the disciplinary history requirements for a QIU; (2) Amend the definition of “conflict of interest” to include public offerings in which at least five percent of the offering proceeds are directed to a participating member or its affiliates; (3) Modify the Rule’s disclosure requirements to provide more prominent disclosure of conflicts of interest in the offering documents; and (4) Amend the Rule’s provisions regarding the use of a QIU to focus on the QIU’s due diligence responsibilities and eliminate the requirement that the QIU render a pricing opinion. In addition, the proposed rule change would amend the QIU qualification requirements to focus on the experience of the firm rather than its board of directors, prohibit a member from acting as a QIU if it would receive more than five percent of the proceeds of an offering, and lengthen from five to ten years the amount of time that a person involved in due diligence in a supervisory capacity must have a clean disciplinary history. These and the other proposed amendments are discussed in greater detail below.

a. Proposed Rule 2720 Generally

Proposed Rule 2720(a) provides that no member that has a conflict of interest may participate in a public offering unless the offering meets one of the exemptions set forth in paragraph (a)(1) or a QIU participates in the offering pursuant to paragraph (a)(2).

b. Offerings Exempt From the QIU and Filing Requirements Under Paragraph (a)(1)

First, FINRA is proposing an exemption from the QIU and filing requirements for public offerings in which the member primarily responsible for managing the offering (e.g., the book-running lead manager or lead placement agent) does not have a conflict of interest, is not an affiliate of a member that has a conflict of interest, and can meet the disciplinary history requirements for a QIU under proposed paragraph (f)(12)(E).⁵ FINRA staff believes that a QIU should not be required for such offerings because the book-running lead manager or lead placement agent (or member acting in a similar capacity), which does not have conflict of interest, would be expected to perform the necessary due diligence that would otherwise be required of a QIU.⁶

In response to comments on the original proposal,⁷ FINRA has amended this provision to clarify that it would apply to public offerings in which there are joint books or that are best efforts offerings. However, where there are two or more co-lead managers or co-lead placement agents that have equal responsibilities with regard to due diligence, each would need to be free of conflicts of interest. Due to the important role a book-runner or dealer-manager can be expected to play in the due diligence process in an offering, even if that responsibility is shared equally with other members, the Rule’s QIU provisions would apply and the offering would have to be filed for review if any book-runner or dealer-manager has a conflict.

Second, FINRA is proposing an exemption from the QIU and filing requirements for public offerings of securities that have a bona fide public market.⁸ The current Rule exempts public offerings of securities for which there is a “bona fide independent market” from Rule 2720’s QIU requirement, but not the filing requirement.⁹ The proposed rule change

⁵ See proposed Rule 2720(a)(1)(A).

⁶ All syndicate members have due diligence responsibility, but the book-runner(s) in a firm commitment offering and the lead placement agent(s) in a best efforts offering typically hire outside counsel to help members meet their due diligence obligations.

⁷ SIFMA Letter.

⁸ See proposed Rule 2720(a)(1)(B).

⁹ “Bona fide independent market” is defined in current Rule 2720(b)(3) as a market in a security that is listed on a national securities exchange or Nasdaq with a market price of \$5 per share, aggregate trading volume of 500,000 shares over 90 days and a public float of 5 million shares.

⁴ Letter from the Securities Industry and Financial Markets Association, dated November 1, 2006 (the “SIFMA Letter”); and Letter from the

American Bar Association, dated December 4, 2006 (the “ABA Letter”).

would replace the term “bona fide independent market” with “bona fide public market,” which is defined in proposed Rule 2720(f)(3) in accordance with the numerical standards set forth in SEC’s Regulation M.¹⁰ Specifically, “bona fide public market” is defined in the proposal as a market for a security issued by a company that has been reporting under the Exchange Act for at least 90 days, is current in its reporting requirements and whose securities are listed on a national securities exchange with an average daily trading volume of at least \$1 million, provided that the issuer’s common equity securities have a public float value of at least \$150 million. One commenter expressed strong support for the proposed definition of “bona fide public market.”¹¹

Third, FINRA is proposing to exempt from the filing requirement, and to retain the existing exemption from the QIU requirement for, public offerings of investment grade rated securities and securities in the same series that have equal rights and obligations as investment grade rated securities.¹² In response to comments on the original proposal,¹³ FINRA has proposed to define “investment grade rated” in proposed Rule 2720(f)(8) to refer to securities that are rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories. This definition is consistent with the definition proposed by FINRA in SR–NASD–2004–022 relating to the filing requirements and the regulation of public offerings of securities registered with the Commission and offered by members pursuant to Securities Act Rule 415 (the “proposed shelf amendments”).¹⁴

The three types of public offerings enumerated in paragraphs (a)(1)(A) through (a)(1)(C) of proposed Rule 2720 would not be subject to the QIU requirements of the proposed Rule and, by operation of proposed Rule 2720(d), they would not be subject to the filing requirements of Rule 5110 (formerly

NASD Rule 2710).¹⁵ They would be, however, subject to the other provisions of proposed Rule 2720, *e.g.*, the escrow and discretionary account requirements in paragraphs (b) and (c) respectively, if applicable. Additionally, these public offerings would be subject to certain disclosure requirements. Proposed Rule 2720(a)(1) would require prominent disclosure of the nature of the conflict of interest in the prospectus, offering circular or similar document for the public offering.

In response to the original proposal, one commenter requested clarification regarding the “prominent disclosure” requirement in the proposed Rule.¹⁶ Proposed Rule 2720(f)(10) provides a description of how a member may make “prominent disclosure” for purposes of paragraphs (a)(1) and (a)(2)(B). Specifically, a member could make the notation “(Conflicts of Interest)” following the listing of the Plan of Distribution in the Table of Contents section required in Item 502 of SEC Regulation S–K, and provide such disclosures in the Plan of Distribution section required in Item 508 and any Prospectus Summary section required in Item 503 of SEC Regulation S–K. For offering documents not subject to SEC Regulation S–K, “prominent disclosure” could be made by providing disclosure on the front page of the offering document that a conflict exists, with a cross-reference to the discussion within the offering document and in the summary of the offering document if one is included. These methods of disclosure would be considered a non-exclusive safe harbor for effecting “prominent disclosure,” and FINRA would consider alternative—but equally prominent—disclosures on a case-by-case basis.

c. Offerings in Which a QIU Must Participate Under Paragraph (a)(2)

If a member with a conflict of interest participates in a public offering that does not meet the conditions of proposed Rule 2720(a)(1), then proposed Rule 2720(a)(2)(A) would require that a QIU participate in the preparation of the registration statement and the prospectus, offering circular or similar document and exercise the usual

standards of “due diligence” with respect thereto.¹⁷

Like proposed Rule 2720(a)(1), proposed Rule 2720(a)(2)(B) would require “prominent disclosure,” as defined in proposed Rule 2720(f)(10), in the prospectus, offering circular or similar document of the nature of the conflict of interest. In addition, proposed Rule 2720(a)(2)(B) would require disclosure of the name of the member acting as QIU and a brief statement regarding the role and responsibilities of the QIU. The disclosure requirements contained in current Rule 2720(d) require that, among other things, the offering documents expressly state that the member acting as QIU (if one is required for the offering) is assuming its responsibilities in pricing the offering and conducting due diligence. In response to commenters’ concerns that such a statement potentially could give rise to liability on the part of the QIU,¹⁸ FINRA is proposing to replace this disclosure requirement with a more general statement about the role and responsibilities of a QIU.

A public offering in which a QIU participates pursuant to proposed paragraph (a)(2) would continue to be subject to the filing requirements of Rule 5110.¹⁹ Additionally, as in the Rule currently, a public offering in which a QIU participates would be required to meet proposed Rule 2720’s escrow and discretionary account requirements, if applicable.

Current Rule 2720 requires that a QIU provide an opinion that the price at which equity securities are offered to the public is no higher, or the yield for debt securities is no lower, than that recommended by the QIU. The proposed rule change would eliminate the requirement that a QIU provide a pricing opinion. FINRA staff is unaware of instances where QIUs have made recommendations that were inconsistent with pricing decisions by the book-running lead manager or lead placement agent. In addition, FINRA staff believes that QIU pricing opinions in at-the-market offerings are of little to no value. Both commenters expressed strong support for eliminating the QIU pricing requirement.²⁰

¹⁰ 17 CFR 242.100 to 105.

¹¹ ABA Letter.

¹² See proposed Rule 2720(a)(1)(C). Thus, proposed Rule 2720(a)(1)(C) would apply to public offerings of securities that have not received an individual rating, but are of the same class or series and are considered “*pari passu*” with other investment grade rated securities issued by the same company.

¹³ ABA Letter.

¹⁴ See Exchange Act Release No. 50749 (November 29, 2004), 69 FR 70735 (December 7, 2004) (notice of filing of SR–NASD–2004–022) and Amendment No. 5 (filed on August 31, 2007), available at <http://www.finra.org/Industry/Regulation/RuleFilings/2004/P036671>.

¹⁵ On September 11, 2008, the Commission approved proposed rule change SR–FINRA–2008–039, in which FINRA proposed, among other things, to adopt NASD Rule 2710 as Rule 5110 in the Consolidated FINRA Rulebook. See Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008). SR–FINRA–2008–039 was implemented on December 15, 2008. See *Regulatory Notice* 08–57 (October 2008).

¹⁶ ABA Letter.

¹⁷ The requisite qualifications of a QIU are set forth in the definition of “qualified independent underwriter” in proposed Rule 2720(f)(12), which is discussed in greater detail below.

¹⁸ ABA Letter; SIFMA Letter.

¹⁹ See proposed Rule 2720(d).

²⁰ ABA Letter; SIFMA Letter.

d. Escrow of Proceeds; Net Capital Computation

Proposed Rule 2720(b)(1) would require that all proceeds from a public offering by a member of its securities shall be placed in a duly established escrow account and shall not be released therefrom or used by the member in any manner until the member has complied with the net capital requirements set forth in paragraph (b)(2). This proposed provision mirrors current Rule 2720(e).²¹

The net capital requirements set forth in proposed Rule 2720(b)(2) mirror current Rule 2720(e)(2), except that FINRA is proposing to replace the reference to Exchange Act Rule 15c3–1(f) with a reference in proposed Rule 2720(b)(2) to the alternative standard for calculating net capital under Exchange Act Rule 15c3–1(a)(1)(ii).

In addition, proposed Rule 2720(b)(3) provides that any member offering its securities pursuant to this Rule shall disclose in the registration statement, offering circular, or similar document a date by which the offering is reasonably expected to be completed and the terms upon which the proceeds will be released from the escrow account described in paragraph (b)(1). This provision mirrors current Rule 2720(d)(1).

e. Disclosure

Current Rule 2720(d)(1) requires disclosure in the registration statement or offering circular regarding the date the offering will be completed and the terms upon which proceeds will be released from the escrow account. Current Rule 2720(d)(2) requires disclosure: (1) That the offering is being made pursuant to Rule 2720; (2) Relating to the member's status in the offering; and (3) Relating to the QIU (if one is required).

The proposed rule change would delete current paragraph (d) of Rule 2720. As discussed above, the proposal would move the disclosure requirements in current paragraph (d)(1) to proposed paragraph (b)(3) and establish separate disclosure requirements for public offerings in which a QIU participates (proposed Rule 2720(a)(2)(B)) and public offerings in which a QIU does not participate (proposed Rule 2720(a)(1)).

²¹ Members are reminded that additional escrow account maintenance and payment requirements may be applicable under Exchange Act Rule 15c2–4.

f. Discretionary Accounts

Proposed Rule 2720(c) provides that, notwithstanding NASD Rule 2510 (Discretionary Accounts), no member that has a conflict of interest would be permitted to sell to a discretionary account any security with respect to which the conflict exists, unless the member has received specific written approval of the transaction from the account holder and retains documentation of the approval in its records. This provision differs from current Rule 2720(l), which also places limitations on sales to discretionary accounts, in that proposed Rule 2720(c) would only apply to the sale of securities by the member with the conflict of interest. Current Rule 2720(l) limits discretionary sales by all firms participating in the offering, even those that do not have a conflict of interest. One commenter expressed support for limiting this provision to the member that has a conflict.²² Additionally, FINRA notes that the “specific written approval” requirement in this provision can be satisfied by an e-mail from the customer.

g. Application of Rule 5110

As noted above, proposed Rule 2720(d) provides that any public offering subject to the QIU requirements of paragraph (a)(2) would be subject to Rule 5110, whether or not the offering would otherwise be exempted from Rule 5110's filing or other requirements. Rule 5110 generally requires members to file with FINRA public offerings for review of the proposed underwriting terms and arrangements. Rule 5110 contains certain exemptions from the filing requirements for, among others, public offerings of the securities of seasoned issuers²³ and offerings of investment grade debt. However, pursuant to current Rule 2720(m), these exemptions are inapplicable to public offerings that fall within the scope of Rule 2720. Thus, for example, while a public offering of the securities of a seasoned issuer is normally exempt from filing under Rule 5110, if a member participating in the offering has a conflict of interest with the seasoned issuer, it must be filed and comply with Rule 5110. The proposed rule change would narrow this filing

²² ABA Letter.

²³ The “seasoned issuer” filing exemption in Rule 5110(b)(7)(C) currently exempts offerings registered on Forms S–3 and F–3 by issuers that meet the standards for those Forms prior to October 21, 1992 (*i.e.*, a three-year reporting history and either \$150 million float or \$100 million float and annual trading volume of three million shares). The proposed shelf amendments (*see supra* note 14) would preserve the current filing requirements and amend the Rule to specifically describe the pre-October 21, 1992 standards.

requirement to apply only to those public offerings that fall within the scope of proposed Rule 2720(a)(2).

In response to comments on the original proposal,²⁴ FINRA is proposing to amend current Rule 5110(b)(7), which lists offerings that are exempt from the Rule 5110 filing requirements, to specify that documents and information related to the public offerings listed in Rule 5110(b)(7) are not required to be filed with FINRA for review, unless the public offering is subject to the QIU requirements of Rule 2720(a)(2). This would clarify that if a public offering listed in Rule 5110(b)(7) is subject to Rule 2720(a)(1), such offering would not be subject to the filing requirements of Rule 5110.

h. Requests for Exemption From Rule 2720

Proposed Rule 2720(e) provides that pursuant to the Rule 9600 Series, FINRA could in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member unconditionally or on specified terms from any or all of the provisions of the proposed Rule that it would deem appropriate. This provision mirrors existing Rule 2720(o).

i. Definition of “Affiliate”

Proposed Rule 2720(f)(1) defines the term “affiliate” as an entity that controls, is controlled by or is under common control with a member. While current Rule 2720(b)(1) incorporates the “control” standard in the definition of affiliate, FINRA is proposing instead to adopt a separate definition of “control,” which is discussed below.

In response to comments on the original proposal,²⁵ FINRA has narrowed the proposed definition of “affiliate” to apply only where an entity controls, is controlled by or is under common control with a member. As originally proposed, the definition would have applied where an entity was under common control with another entity that controls, was controlled by or was under common control with a member.

j. Definition of “Beneficial Ownership”

Proposed Rule 2720(f)(2) defines “beneficial ownership” as the right to the economic benefits of a security. This provision mirrors the definition contained in current Rule 2720(b)(2). In NASD Notice to Members 06–52, FINRA requested comment on whether Rule 2720 should incorporate the definition of “beneficial ownership” found in

²⁴ SIFMA Letter.

²⁵ ABA Letter.

Exchange Act Rule 13d-3. That definition includes the right to dispose and vote the securities, which would apply to many investment funds. In response to comments suggesting that the definition should be confined to economic interests in which the member can profit directly,²⁶ FINRA is proposing to retain the current definition of “beneficial ownership.”

k. Definition of “Common Equity”

Proposed Rule 2720(f)(4) defines “common equity” as the total number of shares of common stock outstanding without regard to class, whether voting or non-voting, convertible or non-convertible, exchangeable or non-exchangeable, redeemable or non-redeemable, as reflected on the consolidated financial statements of the company. This definition mirrors current Rule 2720(b)(5).

l. Definition of “Conflict of Interest”

Proposed Rule 2720(f)(5) would define “conflict of interest” to mean if, at the time of a member’s participation in an entity’s public offering, any of four conditions applies. The proposed Rule would operate much as it does currently. However, the proposed rule change would relocate many of the current Rule’s substantive concepts to the definition of “conflict of interest.”

First, pursuant to proposed Rule 2720(f)(5)(A), a conflict of interest would exist if the securities are to be issued by the member.

Second, pursuant to proposed Rule 2720(f)(5)(B), a conflict of interest would exist if the issuer controls, is controlled by or is under common control with the member or the member’s associated persons. “Control” is defined in proposed Rule 2720(f)(6) and is discussed below.

Third, pursuant to proposed Rule 2720(f)(5)(C), a conflict of interest would exist where at least five percent of the net offering proceeds, not including underwriting compensation, are intended to be either used to reduce or retire the balance of a loan or credit facility extended by the member, its affiliates, and its associated persons (in the aggregate) or otherwise directed to the member, its affiliates, and associated persons (in the aggregate). In response to comments on the original proposal,²⁷ FINRA has amended the proposed definition to clarify that the proceeds are net of underwriting compensation.

Currently, Rule 5110(h) requires public offerings in which ten percent or more of the offering proceeds (not

including the underwriting discount) will be paid to participating members to comply with Rule 2720’s QIU requirements. Pursuant to this proposed rule change, FINRA is proposing to delete Rule 5110(h) and move the proceeds requirement to Rule 2720 by defining “conflict of interest” to include a member’s participation in a public offering where proceeds are directed to the member. Although the threshold for proceeds directed to a member is being lowered from ten percent to five percent, the new threshold would apply to each participating member individually (including the member’s affiliates and its associated persons), not on an aggregate basis for all participating members, as is currently the case. Thus, for example, a conflict of interest would exist where a member received five percent of the proceeds, but not where two unaffiliated members each received three percent of the proceeds.

Fourth, pursuant to proposed Rule 2720(f)(5)(D), a conflict of interest would exist if, as a result of the public offering and any transactions contemplated at the time of the public offering, the member will be an affiliate of the issuer, the member will become publicly owned, or the issuer will become a member or form a broker-dealer subsidiary.

In response to comments on the original proposal,²⁸ FINRA is clarifying that for purposes of Rule 2720, “participation in a public offering” has the same meaning as in Rule 5110. Rule 5110(a)(5) provides that “participation or participating in a public offering” means:

Participation in the preparation of the offering or other documents, participation in the distribution of the offering on an underwritten, non-underwritten, or any other basis, furnishing of customer and/or broker lists for solicitation, or participation in any advisory or consulting capacity to the issuer related to the offering, but not the preparation of an appraisal in a savings and loan conversion or a bank offering or the preparation of a fairness opinion pursuant to [Exchange Act] Rule 13e-3.²⁹

m. Definition of “Control”

As noted above, under the current Rule, the control standard is incorporated in the definition of

“affiliate.” The proposal would define “control” as any of: (1) Beneficial ownership of ten percent or more of the outstanding common equity of an entity, including any right to receive such securities within 60 days of the member’s participation in the public offering;³⁰ (2) The right to ten percent or more of the distributable profits or losses of an entity that is a partnership, including any right to receive an interest in such distributable profits or losses within 60 days of the member’s participation in the public offering;³¹ (3) Beneficial ownership of ten percent or more of the outstanding subordinated debt of an entity, including any right to receive such subordinated debt within 60 days of the member’s participation in the public offering;³² (4) Beneficial ownership of ten percent or more of the outstanding preferred equity of an entity, including any right to receive such preferred equity within 60 days of the member’s participation in the public offering;³³ or (5) The power to direct or cause the direction of the management or policies of an entity.³⁴ FINRA believes it is important in subparagraph (i) to include entities other than corporations in order to expressly include conflicts that may arise in connection with the offerings of, for example, trusts.

FINRA had originally proposed that the definition of control would eliminate ownership of subordinated debt and preferred equity as a basis for a conflict of interest.³⁵ However, in response to comments from Commission staff, FINRA is now proposing to include beneficial ownership of ten percent or more of the outstanding common equity (which is defined expressly to include non-voting stock), subordinated debt or preferred equity in the proposed definition of control. Thus, for example, “control” could derive from the restrictive covenants typically found in debt indentures, preferred rights to dividends given to holders of non-voting common or preferred stock or special voting rights given to certain classes of (generally) non-voting stock. FINRA is specifically requesting comment on whether such

³⁰ Proposed Rule 2720(f)(6)(A)(i). The term “beneficial ownership” is defined in proposed paragraph (f)(2). In response to a comment by Commission staff, FINRA is clarifying that the use of the term “beneficial ownership” in proposed paragraph (f)(6) is a more narrow interpretation of the term as compared to the definition in proposed paragraph (f)(2), owing to the numerical thresholds imposed by proposed paragraph (f)(6).

³¹ Proposed Rule 2720(f)(6)(A)(ii).

³² Proposed Rule 2720(f)(6)(A)(iii).

³³ Proposed Rule 2720(f)(6)(A)(iv).

³⁴ Proposed Rule 2720(f)(6)(A)(v).

³⁵ See current Rule 2720(b)(7)(A) and (C).

²⁶ *Id.*

²⁷ SIFMA Letter.

²⁸ *Id.*

²⁹ Rule 5110(a)(5). Pursuant to the proposed shelf amendments (see *supra* note 14), this definition in former NASD Rule 2710 (which has since been moved to the Consolidated FINRA Rulebook as Rule 5110) would be amended to specify participation in the distribution of the offering on an “underwritten, non-underwritten, principal, agency or any other basis” and to include “participation in a shelf takedown.”

forms of ownership give rise to a conflict of interest and should be included in the proposed Rule.

The proposed definition of control includes not only shares beneficially owned by a participating member, but also the right to receive such securities within 60 days of the member's participation in the public offering. In its original filing of September 6, 2007, FINRA proposed that for purposes of this provision, 60 days would be from the effective date of the offering. However, in Amendment No. 1, FINRA revised the proposed rule text to provide that the relevant time frame is "within 60 days of the member's participation in the public offering."³⁶ This would ensure that the Rule properly applies to takedowns from an effective shelf registration. FINRA believes that the determination of control should be when the member participates in an offering, not the date that a registration statement for the offering is declared effective.

Thus, under the proposed rule change, warrants or rights for voting securities that are exercisable within 60 days of the member's participation in the public offering would be included in the calculation of voting securities when determining whether control exists. In response to comments on the original proposal, FINRA is clarifying that in calculating the percentage beneficial ownership, it is appropriate to include the potential ownership of shares in both the numerator and denominator.³⁷ FINRA does not believe, however, that this calculation should include securities that could be received by all investors. Rather, the calculation would be limited to warrants or rights that are exercisable within 60 days and received by the participating member only and would not include warrants or rights held by other investors.

n. Definition of "Entity"

Currently, Rule 2720 does not contain a definition of "entity." Pursuant to proposed Rule 2720(f)(7), an "entity" would be defined, for purposes of the definitions of affiliate, conflict of interest and control under the Rule, as "a company, corporation, partnership, trust, sole proprietorship, association or organized group of persons."

The proposed definition would expressly exclude: (1) An investment company registered under the Investment Company Act of 1940;³⁸ (2) A "separate account" as defined in Section 2(a)(37) of the Investment Company Act of 1940;³⁹ (3) A "real estate investment trust" as defined in Section 856 of the Internal Revenue Code;⁴⁰ and (4) A "direct participation program" as defined in NASD Rule 2810.⁴¹ These exclusions are substantially similar to the exemptions from the "conflict of interest" provisions contained in current Rule 2720(b)(7)(D). In response to comments on the original proposal,⁴² FINRA revised the proposed definition of "conflict of interest" to apply only to a public offering of an "entity."

o. Definition of "Preferred Equity"

Proposed Rule 2720(f)(9) defines the term "preferred equity" as the aggregate capital invested by all persons in the preferred securities outstanding without regard to class, whether voting or non-voting, convertible or non-convertible, exchangeable or non-exchangeable, redeemable or non-redeemable, as reflected on the consolidated financial statements of the company. This definition mirrors current Rule 2720(b)(12).

p. Definition of "Public Offering"

Proposed Rule 2720(f)(11) is substantively similar to the definition of "public offering" in current Rule 2720(b)(14) and would define the term as any primary or secondary offering of securities made pursuant to a registration statement or offering circular including exchange offers, rights offerings, offerings made pursuant to a merger or acquisition and all other securities offerings of any kind whatsoever. The proposed definition excludes from its scope any offering made pursuant to an exemption from registration under Sections 4(1), 4(2) or 4(6) of the Securities Act of 1933 ("Securities Act"),⁴³ Securities Act Rule 504, if the securities are "restricted securities" under Securities Act Rule 144(a)(3), Securities Act Rule 505, or Securities Act Rule 506, and Securities Act Rule 144A or Regulation S. FINRA currently does not interpret an offering made pursuant to Regulation S to be within the scope of a "public offering" under this Rule and as such, is

proposing also to exclude these offerings from the definition.

Additionally, in response to comments on the original proposal,⁴⁴ FINRA has amended the proposed definition of "public offering" to expressly exclude exempted securities as defined in Section 3(a)(12) of the Exchange Act,⁴⁵ as in the current Rule.

One commenter suggested that the proposed Rule should provide an express exclusion for offerings made pursuant to SEC Rule 144A.⁴⁶ FINRA agrees and has added an express exclusion for offerings under SEC Rule 144A. FINRA also notes that it currently does not interpret an offering made pursuant to SEC Rule 144A to be within the scope of either Rule 5110 or Rule 2720.

q. Definition of "Qualified Independent Underwriter"

Proposed Rule 2720(f)(12) defines the term "qualified independent underwriter" as a member that meets the certain conditions. First, the member must not have a conflict of interest and must not be an affiliate of any member that has a conflict of interest.⁴⁷ The Rule currently does not disqualify or prohibit a QIU from receiving proceeds from an offering. The proposed rule change would prohibit a QIU from receiving more than five percent of the offering proceeds because the receipt of such proceeds would disqualify a member from acting as a QIU because it would fall within the proposed definition of "conflict of interest."

The second condition for being considered a QIU in the proposed Rule is the member cannot beneficially own, as of the date of the member's participation in the public offering, more than five percent of the class of securities that would give rise to a conflict of interest, including any right to receive any such securities exercisable within 60 days.⁴⁸ Current Rule 2720(b)(15)(E) prohibits a member from acting as a QIU if it is an affiliate of the issuer or if it beneficially owns at least five percent of the equity, subordinated debt or partnership interest of the issuer. The proposed rule change would maintain these prohibitions.

Third, the member must have agreed, in acting as a QIU, to undertake the legal responsibilities and liabilities of an underwriter under the Securities Act,

³⁶ For purposes of Rule 2720, "participation in a public offering" has the same meaning as in Rule 5110(a)(5). See *supra* for further discussion of the definition of the term "participation in a public offering."

³⁷ See ABA Letter (requesting that FINRA clarify whether the amount of securities to be received by a member and any other person within 60 days of the offering will be included in the denominator in order to calculate the member's total ownership interest in the issuer's securities).

³⁸ Proposed Rule 2720(f)(7)(B)(i).

³⁹ Proposed Rule 2720(f)(7)(B)(ii).

⁴⁰ Proposed Rule 2720(f)(7)(B)(iii).

⁴¹ Proposed Rule 2720(f)(7)(B)(iv).

⁴² SIFMA Letter.

⁴³ 15 U.S.C. 77d(1), (2), and (6).

⁴⁴ ABA Letter.

⁴⁵ 15 U.S.C. 78c(a)(12).

⁴⁶ ABA Letter.

⁴⁷ Proposed Rule 2720(f)(12)(A).

⁴⁸ Proposed Rule 2720(f)(12)(B).

specifically including those inherent in Section 11 thereof.⁴⁹ The proposed provision mirrors current Rule 2720(b)(15)(F).

Fourth, the member must have served as underwriter in at least three public offerings of a similar size and type during the three-year period immediately preceding the filing of the registration statement or the date of first sale in an offering for which there is no registration statement.⁵⁰ This requirement will be deemed satisfied if, during the past three years, the member, with respect to a proposed public offering of debt securities, has acted as sole underwriter or book-running lead or co-manager of at least three public offerings of debt securities each with gross proceeds of not less than 25% of the anticipated gross proceeds of the proposed offering. With respect to a proposed public offering of equity securities, this requirement will be deemed satisfied if, during the past three years, the member has acted as sole underwriter or book-running lead or co-manager of at least three public offerings of equity securities (or of securities convertible into equity securities), each with gross proceeds of not less than 50% of the anticipated gross proceeds of the proposed offering. FINRA is specifically requesting comment on whether the 50% threshold should be lowered if an equity offering is particularly large (e.g., over \$1 billion). The proposed requirements are similar those set forth in current Rule 2720(b)(15)(C). The proposal would, however, shorten the relevant period from five to three years and would impose, as discussed above, the requirement that a QIU must have acted as a managing underwriter in at least three similar offerings during that time.

Additionally, Rule 2720(b)(15)(B) currently permits a member to serve as a QIU only if the member is a sole proprietorship and the sole proprietor has been actively engaged in the investment banking or securities business for the five-year period immediately preceding the filing of the registration statement, or is a corporation or partnership and a majority of its board of directors or general partners has been similarly engaged in the investment banking or securities business. The proposed rule change would eliminate the requirement regarding board or partner experience, since FINRA staff believes that the experience of the firm is more relevant.

The final condition for being considered a QIU in the proposed Rule

is that the member's associated persons in a supervisory capacity who are responsible for organizing, structuring or performing due diligence with respect to corporate public offerings of securities cannot have certain criminal or disciplinary histories.⁵¹ These associated persons cannot have been convicted within ten years prior to the filing of the registration statement or the preparation of an offering circular in an offering without a registration statement of a violation of the anti-fraud provisions of the Federal or State securities laws, or any rules or regulations promulgated thereunder, in connection with a registered or unregistered offering of securities. These associated persons also cannot be subject to any order, judgment, or decree of any court of competent jurisdiction entered within ten years prior to the filing of the registration statement, or the preparation of an offering circular in an offering without a registration statement, permanently enjoining or restraining such person from engaging in or continuing any conduct or practice in violation of the anti-fraud provisions of the Federal or State securities laws, or any rules or regulations promulgated thereunder in connection with a registered or unregistered offering of securities. Finally, these associated persons cannot have been suspended or barred from association with any member by an order or decision of the Commission, any State, FINRA or any other self-regulatory organization within ten years prior to the filing of the registration statement, or the preparation of an offering circular in an offering without a registration statement, for any conduct or practice in violation of the anti-fraud provisions of the Federal or State securities laws, or any rules, or regulations promulgated thereunder, or the anti-fraud rules of any self-regulatory organization in connection with a registered or unregistered offering of securities. The Rule currently prohibits an associated person's involvement in the due diligence process in a supervisory capacity if that person has been subject to certain criminal and disciplinary actions pertaining to the offering of securities within five years prior to the filing of the registration statement. The proposed rule change, as described above, would lengthen this period from five to ten years.

r. Definition of "Registration Statement"

Proposed Rule 2720(f)(13) defines the term "registration statement" as a

registration statement as defined by Section 2(a)(8) of the Securities Act,⁵² notification on Form 1A filed with the Commission pursuant to the provisions of Securities Act Rule 252, or any other document, by whatever name known, initiating a registration or similar process for an issue of securities which is required to be filed by the laws or regulations of any Federal or State agency. This definition mirrors current Rule 2720(b)(16), except for technical changes to correct the references in the current Rule to Securities Act Section 2(8) and Securities Act Rule 255.

s. Definition of "Subordinated Debt"

Proposed Rule 2720(f)(14) defines "subordinated debt" to include debt of an issuer which is expressly subordinate in right of payment to (or with a claim on assets subordinate to) any existing or future debt of such issuer or all debt that is specified as subordinated at the time of issuance. Subordinated debt shall not include short-term debt with maturity at issuance of less than one year and secured debt and bank debt not specified as subordinated debt at the time of issuance. This definition mirrors current Rule 2720(b)(18).

t. Deleted Definitions

Proposed Rule 2720 does not contain definitions of the following terms that appear in current Rule 2720: "company," "effective date," "immediate family," "parent," "person," "public director," and "settlement." In response to comments on the original proposal,⁵³ FINRA is proposing to adopt the current definitions of "company," "effective date," "immediate family," and "person" as new paragraphs (a)(11) through (14) of Rule 5110 because they are used in that rule. Proposed Rule 2720(f) provides that the definitions in Rule 5110 are incorporated by reference in Rule 2720.

u. Corporate Governance and Periodic Reporting

Rule 2720 currently includes certain provisions that do not apply to the public offering itself and instead require the issuer to adopt corporate governance policies relating to an audit committee, public directors, and to issue periodic reports to shareholders.⁵⁴ With the enactment of the Sarbanes-Oxley Act of 2002 and recent SEC rulemaking and interpretive actions, FINRA believes that issuers' periodic reporting requirements under the Exchange Act

⁴⁹ Proposed Rule 2720(f)(12)(C).

⁵⁰ Proposed Rule 2720(f)(12)(D).

⁵¹ See proposed Rule 2720(f)(12)(E).

⁵² 15 U.S.C. 77b(a)(8).

⁵³ ABA Letter.

⁵⁴ See current Rule 2720(f), (g), and (h).

have been enhanced and listing standard changes intended to improve corporate governance and enhance the role of audit committees have been adopted. Accordingly, at this time, FINRA believes that separate Rule 2720 requirements for corporate governance and periodic reporting are unnecessary. One commenter expressed support for eliminating these provisions from Rule 2720.⁵⁵

v. Intrastate Offerings

Rule 2720(j) currently requires any member offering its securities pursuant to the intrastate offering exemption under the Securities Act to include in the offering documents information required in a release that the Commission published in 1972. The proposed amendments would delete this requirement from Rule 2720. FINRA believes that disclosure requirements for unregistered offerings should be addressed in a more comprehensive manner by the Commission, the states, or FINRA, and not imposed under the narrow scope of Rule 2720 or limited to intrastate offerings. One commenter suggested that FINRA should not adopt disclosure requirements for intrastate offerings because such offerings are subject to the disclosure requirements of the State where the securities are offered.⁵⁶

x. Suitability

Rule 2720(k) currently requires that every member underwriting an issue of its own securities, or securities of an affiliate or company with which it has a conflict of interest, that recommends to a customer the purchase of a security of such issue must have reasonable grounds to believe that the recommendation is suitable for the customer. FINRA is not proposing a similar provision in new Rule 2720 because NASD Rule 2310 already addresses a member's obligations relating to suitability.

FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The implementation date will be 30 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁵⁷ which

requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will simplify and modernize Rule 2720, thereby providing greater clarity regarding members' obligations and enhancing the regulation of public offerings in which members have a conflict of interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in NASD *Notice to Members* 06-52 (September 2006). Two comments were received in response to the *Notice*. A copy of the *Notice* is attached as Exhibit 2a. A list of the comment letters received in response to the *Notice* is attached as Exhibit 2b. Copies of the comment letters received in response to the *Notice* are attached as Exhibit 2c. Those comments that have not already been addressed herein are discussed below.⁵⁸

Comments on the Scope of Proposed Rule 2720

Both commenters suggested revising proposed Rule 2720(a)(1) to include additional categories of public offerings that would be exempt from the QIU and filing requirements by operation of proposed Rule 2720(d). As discussed in greater detail below, FINRA does not agree that the exemptions should be expanded further. FINRA notes that, as proposed, the Rule would significantly reduce the number of public offerings that must be filed and reviewed by FINRA staff. A public offering (that is not an offering of investment grade rated securities or securities with a bona fide public market) will be subject to the QIU and filing requirements under Rule 2720 only if a member with primary responsibility for managing the offering has a conflict of interest. As such, FINRA does not believe that it would be appropriate to further expand the

automatic exemptions under the Rule, as suggested by the commenters.

Specifically, the commenters suggested that paragraph (a)(1) of the proposed Rule should include "well-known seasoned issuers" or "WKSI." ⁵⁹ The commenters contend that such a change would be consistent with the proposed shelf amendments, which proposes exempt all WKSI shelf offerings from the filing requirements of the predecessor to Rule 5110.⁶⁰ FINRA does not agree. FINRA believes that if a participating member has a conflict of interest, the offering should be subject to the QIU and filing requirements, irrespective of whether the issuer involved is a WKSI. Today, a WKSI that is not required to file under Rule 5110 would nonetheless be required to obtain a QIU if it were to receive ten percent of the offering proceeds.⁶¹ In addition, FINRA does not agree that application of Rule 2720 to WKSI would slow the offering process.⁶² Currently, all WKSI filings are reviewed and cleared on the same day they are received by FINRA's Corporate Financing Department. In connection with the proposed shelf amendments, FINRA is developing upgrades to the COBRADesk electronic filing system that will implement a new same-day automatic review and clearance process for most shelf offerings and all WKSI shelf offerings.⁶³

Similarly, one commenter suggested that public offerings by issuers with investment grade rated debt, which are currently exempted by Rule 5110(b)(7)(A), should be included in proposed Rule 2720(a)(1).⁶⁴ FINRA does not agree. The proposed rule change is designed to focus on the particular public offering in which a member has a conflict of interest. FINRA believes that while it is appropriate to exempt certain public offerings from the Rule, it would be inappropriate to exempt an entire class of issuers such as WKSI or all issuers with investment grade rated debt. The relevant inquiry is whether the member has a conflict of interest with respect to that offering of that security; the characteristics of the issuer should not be determinative. As such, FINRA also does not agree with the commenter that proposed paragraphs

⁵⁹ ABA Letter; SIFMA Letter. See also Securities Act Rule 405 (defining WKSI); Exchange Act Release No. 52056 (July 19, 2005), 70 FR 44722 (August 3, 2005) (adopting the WKSI definition).

⁶⁰ ABA Letter; SIFMA Letter. The proposed shelf amendments were proposed to amend NASD Rule 2710, which has since been moved to the Consolidated FINRA Rulebook as Rule 5110. See *supra* note 15.

⁶¹ See Rule 5110(h) and current Rule 2720(m).

⁶² SIFMA Letter.

⁶³ See *supra* note 14.

⁶⁴ SIFMA Letter.

⁵⁵ ABA Letter.

⁵⁶ *Id.*

⁵⁷ 15 U.S.C. 78o-3(b)(6).

⁵⁸ In addition, FINRA has incorporated some of the commenters' non-substantive comments without specifically addressing them herein, e.g., comments regarding inconsistent use of the terms "entity," "company" and "issuer." See ABA Letter.

(a)(1)(B) and (C) should be amended to refer to the issuer of the securities, instead of the securities being offered.⁶⁵

One commenter suggested that the exception under proposed Rule 2720(a)(1)(B) should be available for public offerings of warrants, options, convertible debt and convertible preferred securities that are exercisable for or convertible into equity securities that meet the standard of having a bona fide public market.⁶⁶ FINRA does not believe that such an exemption would be appropriate because the characteristics of the derivative will not always be the same as the underlying security. The existence of a bona fide public market in the underlying equity security does not necessarily extend to an offering of a derivative on that security.

One commenter also suggested that there should be an exception for offerings by banks and other financial institutions that are the parents or affiliates of FINRA members of medium-term notes or similar securities, the return of which is linked to the performance of a particular stock, asset or index.⁶⁷ While an offering of these securities that are rated investment grade would be exempted under the proposed Rule, FINRA believes that an offering of such securities rated below investment grade should continue to be subject to the filing and QIU requirements. FINRA believes that an exemption for offerings of structured products rated below investment grade would be inconsistent with concerns expressed by FINRA about these securities.⁶⁸ However, to avoid potential unintended consequences of the proposed Rule, FINRA is specifically requesting comment on whether certain other types of securities that are registered on a shelf registration statement or automatic shelf registration statement should be eligible for the exemption from the filing and QIU requirements.

Both commenters suggested that the reorganizations, mergers and acquisition transactions that are currently exempted

by Rule 2720(a)(3) should be exempted under proposed Rule 2720(a)(1).⁶⁹ FINRA believes that unless a reorganization, merger or acquisition would otherwise meet the proposed Rule 2720(a)(1) exemptions, it should be subject to the QIU and filing requirements. The Rule currently applies to these transactions if the member or its parent issues shares or the transaction results in the public ownership of a member. Thus, there is not currently a blanket exemption for reorganizations, mergers and acquisitions.

One commenter also suggested that the proposed Rule should exempt all offerings by government entities.⁷⁰ FINRA has proposed to exclude certain government entities from the filing requirements of Rule 5110 pursuant to the proposed shelf amendments.⁷¹ However, FINRA does not agree that all such offerings should be excluded under Rule 2720. If a member has a conflict of interest with a government entity (e.g., the member will receive at least five percent of the net proceeds of the public offering) and the public offering does not otherwise meet the Rule 2720(a)(1) exemptions, FINRA believes that the offering documents should be filed and reviewed by FINRA staff.

One commenter suggested that offerings of securities exempt from registration with the Commission under Section 3(a)(4) of the Securities Act of 1933 should be exempt under proposed Rule 2720(a)(1), noting that such offerings currently are exempted from the conflict of interest provisions of Rule 2720.⁷² While FINRA is not aware of member conflicts with non-profit or charitable organizations, in the unlikely event that such a conflict does exist, FINRA believes that the offering should be filed and reviewed by FINRA staff.

This same commenter also suggested that proposed Rule 2720(a)(1) should exclude offerings conducted pursuant to the multi-jurisdictional disclosure system because they are already subject to regulation under the Canadian system.⁷³ FINRA does not agree that it should remove itself from public offerings in which a FINRA member with a conflict of interest is participating, even if such offerings also are subject to regulation under the Canadian system.

Finally, with respect to proposed Rule 2720(a)(1)(A), one commenter suggested

amending the provision to apply to any book-running manager, including co- or joint book-running managers, such that a QIU would not be required if any of the joint book-runners could meet the requirements of the Rule.⁷⁴ FINRA does not agree that the provision should be expanded in this way. FINRA understands that in some joint book offerings, members have been designated as a joint book-runner or co-lead manager in return for assistance with the road show or other services critical to marketing the offering. In some cases, the member designated as a co-lead would not be in the position of supervising due diligence for the offering or may not be involved in the due diligence at all. FINRA staff does not believe that including a book-runner or lead placement agent without a conflict of interest eliminates the conflict that exists with respect to the remaining book-runner(s) or lead placement agent(s). Therefore, amending the proposed provision as the commenter suggests would not fulfill the objective of ensuring independent due diligence by a member free of conflicts.

Comments on Proposed QIU Requirements

One commenter suggested that the references to “due diligence” and “usual standards of due diligence” should be eliminated from the Rule, expressing concern that such references could raise the due diligence defense to the level of a regulatory requirement.⁷⁵ The requirement that a QIU exercise the usual standards of due diligence has been in the Rule for 20 years and FINRA believes that it is an appropriate regulatory requirement.⁷⁶ However, as discussed above, in response to comments, as well as similar concerns expressed by FINRA’s Corporate Financing Committee, FINRA has eliminated the proposal to require that the offering documents include a statement that the QIU has assumed responsibilities for conducting due diligence.

The commenters also suggested that offerings in which a QIU participates should be exempt from the filing requirements of Rule 5110.⁷⁷ FINRA does not believe that the participation of a QIU in an offering sufficiently mitigates the conflicts of interest such that FINRA review is no longer necessary. Additionally, pursuant to current Rule 2720(m), the Rule 5110

⁶⁵ *Id.*

⁶⁶ ABA Letter.

⁶⁷ *Id.*

⁶⁸ See NASD Notice to Members 05-59 (September 2005). The Notice stated that FINRA is concerned that when members sell structured products, they may not be fulfilling their sales practice obligations, including the requirement to perform a reasonable-basis and customer-specific suitability determination. The Notice also raised specific concerns about member sales practice obligations when selling these instruments to retail customers. The Notice added that structured products have been increasingly targeted at retail investors and that FINRA is concerned about the manner in which such products are marketed and the types of investors purchasing such products.

⁶⁹ ABA Letter; SIFMA Letter.

⁷⁰ SIFMA Letter.

⁷¹ See *supra* note 14.

⁷² SIFMA Letter.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ See, e.g., current Rule 2720(c)(3)(A) and (d)(2).

⁷⁷ ABA Letter; SIFMA Letter.

filing requirements apply to all public offerings subject to Rule 2720, including public offerings in which a QIU has participated. Thus, the proposed rule change would not expand the current filing requirements.

Comments on the Proposed Discretionary Accounts Provision

One commenter⁷⁸ suggested that the Rule should be revised to incorporate the advance authorization procedure in FINRA's Corporate Financing Department's exemption letter to Goldman Sachs (the "Goldman Letter").⁷⁹ The Goldman Letter applies to public offerings of straight debt securities, structured notes and straight preferred stock issued by Goldman or its affiliates and permits the firm to use an advance authorization procedure in lieu of the requirement in Rule 2720 for prior specific written approval. Specifically, the firm could obtain an advance written letter of consent from certain customers with discretionary accounts and oral authorization by the customer prior to execution of the transaction. FINRA does not believe that Rule 2720 should expressly incorporate the advance authorization procedure set forth in the Goldman Letter. As discussed above, the written authorization requirements of this provision can be satisfied by e-mail, which today may often prove quicker and easier than obtaining oral authorization.

Additionally, this commenter suggested that public offerings in which proceeds are being directed to a member should be exempted from the discretionary account provision.⁸⁰ FINRA does not agree. FINRA believes that the receipt of offering proceeds by members and their affiliates gives rise to conflicts that are of equal concern in the context of sales to a discretionary account.

Comments on the Proposed Definition of "Affiliate"

One commenter suggested that the definition of "affiliate" should be structured similar to the current definition as a control standard and a presumption of control as a result of management or share ownership.⁸¹ FINRA recognizes that there are other ways to define "affiliate." However, this commenter has not demonstrated that

its recommended approach is better than the approach FINRA is proposing.

Comments on the Proposed Definition of "Bona Fide Public Market"

The commenters suggested that the definition of "bona fide public market" should be amended to apply to equity securities of foreign issuers that meet the "actively traded" standards of Regulation M and are designated offshore securities markets under Rule 902(b).⁸² Upon further consideration, FINRA is not proposing to amend the definition along these lines. Because securities with a bona fide public market are not subject to the QIU or filing requirements, amending the definition to apply to securities traded on a foreign market would make this exemption too broad.

One commenter also suggested that the definition should be amended to clarify that the issuer—and not the particular security—must have a bona fide public market.⁸³ FINRA does not agree. As discussed above, the focus of this Rule is on the securities being offered and not the characteristics of the issuer.

Comments on the Proposed Definition of "Conflict of Interest"

The commenters suggested that there should be no filing requirement for public offerings in which the conflict of interest derives from the member's receipt of proceeds.⁸⁴ One commenter asserted that "NASD has historically deemed a conflict of interest based on the receipt of offering proceeds by participating members to be a less significant conflict than one that is based on the ownership of an issuer's securities or management control."⁸⁵ FINRA does not agree and believes that the conflict deriving from a member's receipt of proceeds warrants review and filing of the offering documents. Indeed, FINRA's Corporate Financing Committee has identified conflicts resulting from proceeds being directed to a member as one of the most important conflicts in public offerings today. Pursuant to the proposed rule change, all public offerings in which a QIU is involved—including those for which a QIU is required because proceeds are being directed to a member or its affiliate—must be filed and reviewed by FINRA staff.

Additionally, both commenters assert that the five percent threshold for a member's receipt of offering proceeds is

too low.⁸⁶ FINRA does not agree and believes that in recognition of the significance of proceeds-related conflicts, it is appropriate to lower the threshold from ten percent to five percent.

One commenter suggested that the proposed definition of "conflict of interest" should exclude transactions by which the issuer will become a member or form a broker-dealer subsidiary.⁸⁷ This commenter also suggested that the definition be revised to exclude reorganizations and restructurings if no material change in the ownership of the issuer or participating member is taking place.⁸⁸ FINRA does not agree that merely because the corporate governance provisions have been deleted from the Rule, a member's participation in such offerings no longer creates a conflict of interest. FINRA believes that these offerings should be subject to the Rule.

This commenter also suggested that the old formulation in which conflicts of interest existed under specific circumstances, rather than as a result of a member's participation in public offerings where certain conditions apply, should be retained because it was easier for members to argue that no conflict actually exists.⁸⁹ FINRA does not agree and believes that the proposed definition of "conflicts of interest" is preferable in that it clearly delineates the scope of the Rule.

The commenters suggested that the definition should not apply to arms length forward sales contracts and other derivatives where the proceeds are used by the issuer to purchase the securities to hedge risk in the transactions.⁹⁰ FINRA is requesting further comment on this issue and specifically how use of the proceeds by the issuer to buy derivatives or other hedging transactions is substantially different from other uses of proceeds contemplated by the Rule (e.g., to retire debt).

Comments on the Proposed Definition of "Control"

One commenter suggested that "control" should not be a defined term because an entity that is in a control relationship is an affiliate and thus, the control concept should remain in the definition of "affiliate."⁹¹ As previously noted, FINRA recognizes that there are other ways to approach the definitions

⁷⁸ ABA Letter.

⁷⁹ See letter to Judith G. Belash, Esq., Goldman, Sachs & Co., from Joseph Price, NASD, Corporate Financing Department, dated June 14, 1999, available at <http://www.finra.org/Industry/Regulation/Guidance/ExemptiveLetters/P002617>.

⁸⁰ ABA Letter.

⁸¹ *Id.*

⁸² *Id.*; SIFMA Letter.

⁸³ SIFMA Letter.

⁸⁴ ABA Letter; SIFMA Letter.

⁸⁵ ABA Letter.

⁸⁶ ABA Letter; SIFMA Letter.

⁸⁷ SIFMA Letter.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ ABA Letter; SIFMA Letter.

⁹¹ ABA Letter.

and standards set forth in this Rule. However, FINRA does not believe that the approach the commenter has proposed is preferable to that outlined above.

Comments on the Proposed Definition of "Entity"

One commenter suggested that the proposed definition of "entity" be amended to include groups of persons only if they are organized to conduct business under the laws of a jurisdiction.⁹² FINRA does not agree and believes that more flexibility is needed given that FINRA is not proposing to define "beneficial ownership" in accordance with Exchange Act Rule 13d-3.

Comments on the Proposed Definition of "Public Offering"

One commenter reiterated its concern, also expressed in response to FINRA's proposed shelf amendments, that Rules 5110 and 2720, and NASD Rule 2810, should not be extended to any sale of securities (even one share) from a registration statement or offering circular, including a takedown of securities from a shelf registration statement that does not meet the standard of being a "distribution" for purposes of Regulation M.⁹³ The appropriate filing requirements for shelf takedowns are addressed in FINRA's response to comments on the proposed shelf amendments.

Comments on the Proposed Definition of "QIU"

One commenter suggested that the disciplinary history lookback period should not be extended from five years to ten.⁹⁴ FINRA believes that a longer lookback period is consistent with the goal of ensuring that a QIU will provide the necessary investor protection in public offerings where a member has a conflict of interest. Additionally, FINRA notes that a ten-year lookback is consistent with the period used to determine whether a person is subject to a statutory disqualification.

One commenter suggested that ownership of five percent or more of the issuer's securities is too low a threshold for purposes of disqualification as a QIU and should be increased to ten percent in proposed Rule 2720(f)(12)(B).⁹⁵ FINRA believes that the five percent threshold is not too low and in fact considered lowering it to three percent.

This commenter also believes that the term "5% of the class of securities that

would give rise to a conflict of interest" contained in proposed Rule 2720(f)(12)(B) improperly suggests that the member's conflict of interest is with the issuer's securities rather than with the issuer and should be replaced with "5% of the issuer's total equity securities."⁹⁶ FINRA does not agree. Because the proposed Rule addresses conflicts resulting from the receipt of offering proceeds by the member, the five percent standard is appropriately limited to the class of securities offered.

One commenter suggested that the Rule should permit a prospective QIU to demonstrate on a case-by-case basis that it has acquired experience within the previous years involving the pricing and due diligence functions.⁹⁷ FINRA believes that such an approach would be unmanageable and that a bright-line test is necessary.

One commenter suggested that FINRA should eliminate the requirement that FINRA members wishing to act as a QIU must qualify on an annual basis.⁹⁸ This commenter stated that when a participating member acts as a QIU, that member represents by way of prospectus disclosure that it is qualified to act and the commenter believes that FINRA should not require proof in each case. FINRA notes that there is no annual qualification requirement contained in the current or proposed Rule. Rather, to streamline the QIU process, FINRA's Corporate Financing Department permits members to provide information establishing that they meet the QIU qualification requirements in advance of participating in a particular public offering and to update this information annually. In the course of its review of information in connection with a public offering requiring a QIU, FINRA staff routinely asks for information that establishes that a member identified as a QIU is qualified to participate in that capacity. If a member has already provided this information within the last 12 months or has done an annual update, the member will not need to provide the information in connection with that particular offering.

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-FINRA-2007-009 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-FINRA-2007-009. 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 FINRA. 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

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ SIFMA Letter.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

submissions should refer to File Number SR-FINRA-2007-009 and should be submitted on or before June 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹⁹

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-11081 Filed 5-12-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59877; File No. SR-ISE-2007-121]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, Relating to ISE's Margin Rule

May 6, 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 December 24, 2007, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been substantially prepared by the self-regulatory organization. On April 29, 2009, ISE filed Amendment No. 1. The Commission is publishing this notice, as amended, 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 ISE is proposing to amend its margin requirements to facilitate, under certain circumstances, the ability of account holders to use vested and currently exercisable compensatory employee stock options ("Vested Employee Options") issued by publicly traded companies as collateral for writing call options that have the same underlying security as the Vested Employee Options. The text of the proposed rule change is available on the ISE's Web site (<http://www.iseoptions.com>), at the principal office of the ISE, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its margin requirements to facilitate, under certain circumstances, the ability of account holders to use Vested Employee Options issued by publicly traded companies ("Issuers") as collateral for writing call options that have the same underlying security as the Vested Employee Options. Specifically, the proposal would allow account holders to sell, as a hedge, listed equity call options on the same underlying security as the account holder's Vested Employee Options without the requirement of margin (the "Transactions").³ The proposal would implement a concept developed by iOptions Group, LLC ("iOptions"), a Chicago-based organization founded in 1999 by former listed equity options traders. The proposal would permit account holders to engage in the Transactions using their Vested Employee Options as collateral. Currently, such Transactions would be deemed "naked" for purposes of the margin rules and subject to a deposit of cash margin, effectively making the strategies cost prohibitive and impractical. iOptions and ISE have been collaborating on the proposal since early 2000 and the Exchange believes that the concept developed by iOptions—that is, enabling employees who hold Vested Employee Options to generate income and liquidity on their otherwise illiquid asset through the listed options markets—will benefit investors by providing greater transparency and liquidity.

Under Section 220.12(f)(1) of Regulation T,⁴ the Exchange, as a registered national securities exchange, is permitted to recognize the type of transactions described below as eligible for margin treatment subject to the approval of the Commission.

There appears to be precedent to create liquidity for holders of Vested Employee Options, as indicated by initiatives by Google Inc. ("Google") and Credit Suisse First Boston ("CSFB"). Specifically, in the second quarter of 2007, Google implemented a program that enables certain of its employees to sell their Vested Employee Options to financial institutions that bid for their Vested Employee Options through a competitive auction.⁵ Additionally, in March 2004, the SEC's Division of Corporation Finance provided CSFB a no-action letter (the "CSFB No-Action Letter")⁶ with respect to CSFB's plan to enable persons subject to Section 16 of the Securities Exchange Act of 1934 (the "Exchange Act"), e.g., directors, officers and 10-percent shareholders ("Section 16 insiders"), with substantially in-the-money vested employee stock options to use over-the-counter derivatives to limit their exposure to fluctuations in the trading price of the underlying common stock. Under CSFB's program, Section 16 insiders sell CSFB a call option and buy from CSFB a put option on common stock underlying their stock options. The exercise prices of the call and put options (together, a "collar") are determined so as to provide the Section 16 insiders a measure of protection against a fall in the market value of the common stock during the collar's term in return for diminishing the ability of the Section 16 insiders to profit from a strong performance of the common stock during such period.

Unlike Google's program, which will generally truncate the remaining term of Google Vested Employee Options to two years upon their sale (resulting in holders forfeiting any time value of their Vested Employee Options beyond the two-year period), the ISE's proposal would allow holders of Vested Employee Options to monetize the entire remaining time value of their Vested Employee Options because the term of the Vested Employee Options would be unaffected by the listed call option.

⁴ Section 220.12(f)(1) of Regulation T (12 CFR 220), *Supplement: Margin Requirements*, grants authority to registered national securities exchanges to promulgate rules relating to call and put margin requirements.

⁵ See http://www.google.com/intl/en/press/pressrel/ir_20061212.html.

⁶ Credit Suisse First Boston, SEC No-Action Letter, 2004 WSB 0712200401 (March 18, 2004).

⁹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Absent relief from the Commission, broker-dealers would need to take a capital charge for the amount of unsecured margin debt.

Unlike CSFB's program, the ISE's proposal would make it possible for not only Section 16 insiders (who would generally be able to meet existing listed option margin deposit requirements) but also "paper rich/cash poor" holders to monetize the value of their Vested Employee Options. Also unlike CSFB's program, the proposal would permit account holders to sell call options against their Vested Employee Options in the listed options markets, which generally provide more liquidity and transparency than the over-the-counter markets.

Description of the Transactions

The proposal would permit account holders to sell listed call options on the same security that underlies their Vested Employee Options without the requirement of margin. Given the uncertificated nature of employee stock options, in order to secure the account holder's obligations under the Transactions, the proposal would require:

1. The account holder to (A) pledge the Vested Employee Options to the broker-dealer and (B) provide the broker-dealer with an irrevocable power-of-attorney authorizing the broker-dealer to exercise the Vested Employee Options on the account holder's behalf if the listed call options are assigned or if the broker-dealer determines it is necessary. The irrevocable power-of-attorney may also be used in the event the account holder wishes to close the listed option position prior to its expiration and instructs the broker-dealer to exercise that number of Vested Employee Options necessary to cover the cost of the closing purchase (the account holder will also have the option of depositing additional cash in the account holder's account to cover the cost of the closing purchase).

2. In the event any Vested Employee Options are exercised between the date of the Transaction in the listed call options (the "Commencement Date") and the date the Transaction is closed (the "Closing Date"), the shares issued upon exercise will be pledged to the broker-dealer (thereby replacing the Vested Employee Options that had been pledged prior to exercise). For example, during the time a Transaction is pending, the account holder may resign from the account holder's employment with the Issuer and may be required to exercise the Vested Employee Options within a certain timeframe following the account holder's departure. In such a scenario, the account holder would ask the broker-dealer to exercise the Vested Employee Options and the stock issued

pursuant to the exercise would be pledged to the broker-dealer.

3. The Issuer will promptly deliver the stock upon payment or receipt of the exercise notice from the broker-dealer.⁷ The Issuer will also agree prior to the Commencement Date to waive any forfeiture conditions that otherwise might apply to the Vested Employee Options (e.g., upon a termination of the account holder's employment with the issuer) as well as any transfer restrictions that would preclude pledge of the Vested Employee Options to the broker-dealer. In addition, the Issuer will represent that the Vested Employee Options are covered by an effective registration statement on Form S-8. If the registration statement becomes ineffective the Issuer will notify the broker-dealer immediately.

4. Because it is essential that the account holder, broker-dealer and Issuer cooperate and are each fully informed, agree to and acknowledge their own and each other's responsibilities, all Transactions will be governed by an agreement (the "Agreement") entered into by the account holder, Issuer and broker-dealer prior to the Commencement Date of the first transaction. The Agreement would generally set forth each party's obligations, representations and acknowledgements and the terms and conditions governing the Transactions and must be in a form acceptable to the Exchange.⁸

5. Such other terms and conditions proscribed by the Exchange in accordance with such form, formats and procedures as may be established by the Exchange from time to time. In this regard, upon approval of the proposed rule change and for a period of one year, the Exchange will require that, prior to the Commencement Date, a legal opinion with respect to the account holder's and Issuer's legal right to enter into the Transactions under the terms of the Issuer's employee stock option plan and related documents (the "Legal Opinion") be obtained in a form acceptable to the Exchange. During the one-year time period, the Exchange may determine that such legal opinion is no longer necessary and will revise its established forms, formats and procedures accordingly.

⁷ The Exchange will proscribe a set delivery period, which is expected to be no later than three business days following assignment of the listed options.

⁸ In this regard, the Exchange intends to recognize the Master Vested Stock Option Monetization Agreement created by iOptions as one acceptable agreement.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are 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 for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that this new order type will offer market participants new trading opportunities on the Exchange and enhance the Exchange's competitive position.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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. Specifically the Commission requests comment on the following topics:

- Are there other alternative steps that could be taken that would enhance a broker-dealer's legal authority to exercise the Vested Employee Options and receive the underlying stock? Please

describe any such alternatives and why those alternatives may be more consistent with the Act.

- If no margin is required for a Transaction, what steps, if any, should be taken regarding liquidity or operational risks arising from the Transactions? Should the margin rule include a minimum margin requirement?

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 No. SR-ISE-2007-121 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-ISE-2007-121. 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 ISE. 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-ISE-2007-121 and should be submitted on or before June 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harman,

Deputy Secretary.

[FR Doc. E9-11122 Filed 5-12-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59876; File No. SR-CBOE-2008-55]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, Related to Margin Requirements

May 6, 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 June 2, 2008, the Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On May 3, 2009, CBOE filed Amendment No. 1. The Commission is publishing this notice, as amended, 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 modify its margin requirements to facilitate, under certain circumstances, the ability of account holders to use vested and currently exercisable compensatory employee stock options ("Vested Employee Options") issued by publicly traded companies as collateral for writing call options that have the same underlying security as the Vested Employee Options. Specifically, the proposal would allow account holders to sell, as a hedge, listed equity call options on the same underlying security as the account holder's Vested Employee Options without the requirement of margin. 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.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 proposes to amend its margin requirements to facilitate, under certain circumstances, the ability of account holders to use Vested Employee Options issued by publicly traded companies ("Issuers") as collateral for writing call options that have the same underlying security as the Vested Employee Options. Specifically, the proposal would allow account holders to sell, as a hedge, listed equity call options on the same underlying security as the account holder's Vested Employee Options without the requirement of margin (the "Transactions").³ The proposal would permit account holders to engage in the Transactions using their Vested Employee Options as collateral. Currently, such Transactions would be deemed "naked" for purposes of margin rules and subject to a deposit of cash margin, effectively making the strategies cost prohibitive and impractical. The Exchange believes that enabling employees who hold Vested Employee Options to generate income and liquidity on their otherwise illiquid asset through the listed options markets will benefit investors by providing greater transparency and liquidity.

Under Section 220.12(f)(1) of Regulation T,⁴ the Exchange, as a registered national securities exchange, is permitted to recognize the type of transactions described below as eligible

³ Absent relief from the Securities and Exchange Commission, broker-dealers would need to take a capital charge for the amount of unsecured margin debt.

⁴ Section 220.12(f)(1) of Regulation T (12 CFR 220), *Supplement: Margin Requirements*, grants authority to registered national securities exchanges to promulgate rules relating to call and put margin requirements.

for margin treatment subject to the approval of the Commission.

There appears to be precedent to create liquidity for holders of Vested Employee Options, as indicated by initiatives by Google Inc. ("Google") and Credit Suisse First Boston ("CSFB"). Specifically, in the second quarter of 2007, Google implemented a program that enables certain employees to sell their Vested Employee Options to financial institutions that bid their Vested Employee Options through a competitive auction.⁵ Additionally, in March 2004, the SEC's Division of Corporation Finance provided CSFB a no-action letter (the "CSFB No-Action Letter")⁶ with respect to CSFB's plan to enable persons subject to Section 16 of the Securities Exchange Act of 1934 (the "Act"), e.g., directors, officers and 10-percent shareholders ("Section 16 insiders"), with substantially in-the-money vested employee stock options to use over-the-counter derivatives to limit their exposure to fluctuations in the trading price of the underlying common stock. Under CSFB's program, Section 16 insiders sell CSFB a call option and buy from CSFB a put option on common stock underlying their stock options. The exercise prices of the call and put options (together, a "collar") are determined so as to provide the Section 16 insiders a measure of protection against a fall in the market value of the common stock during the collar's term in return for diminishing the ability of the Section 16 insiders to profit from a strong performance for the common stock during such period.

Unlike Google's program, which will generally truncate the remaining term of Google Vested Employee Options to two years upon their sale (resulting in holders forfeiting any time value of their Vested Employee Options beyond the two-year period), CBOE's proposal would allow holders of Vested Employee Options to monetize the entire remaining time value of their Vested Employee Options because the term of the Vested Employee Options would be unaffected by the listed call option.

Unlike CSFB's program, CBOE's proposal would make it possible for not only Section 16 insiders (who would generally be able to meet existing listed option margin deposit requirements) but also "paper rich/cash poor" holders to monetize the value of their Vested Employee Options. Also, unlike CSFB's program, the proposal would permit

account holders to sell call options against their Vested Employee Options in the listed options markets, which generally provide more liquidity and transparency than the over-the-counter markets.

Description of the Transactions

The proposal would permit account holders to sell listed call options on the same security that underlies their Vested Employee Options without the requirement of margin. Given the uncertificated nature of employee stock options, in order to secure the account holder's obligations under the Transactions, the proposal would require:

1. The account holder to (A) pledge the Vested Employee Options to the broker-dealer and (B) provide the broker-dealer with an irrevocable power-of-attorney authorizing the broker-dealer to exercise the Vested Employee Options on the account holder's behalf if the listed call options are assigned or if the broker-dealer determines it is necessary. The irrevocable power-of-attorney may also be used in the event the account holder wishes to close the listed option position prior to its expiration and instructs the broker-dealer to exercise that number of Vested Employee Options necessary to cover the cost of the closing purchase (the account holder will also have the option of depositing additional cash in the account holder's account to cover the cost of the closing purchase).

2. In the event the Vested Employee Options are exercised between the date of the Transaction in the listed call options (the "Commencement Date") and the date the Transaction is closed (the "Closing Date"), the shares issued upon exercise will be pledged to the broker-dealer (thereby replacing the Vested Employee Options that had been pledged prior to exercise). For example, during the time a Transaction is pending, the account holder may resign from the account holder's employment with the Issuer and may be required to exercise the Vested Employee Options within a certain timeframe following the account holder's departure. In such a scenario, the account holder would ask the broker dealer to exercise the Vested Employee Options and the stock issued pursuant to the exercise would be pledged to the broker-dealer.

3. The Issuer will promptly deliver the stock upon payment or receipt of the exercise notice from the broker-dealer.⁷

The Issuer will also agree prior to the Commencement Date to waive any forfeiture conditions that otherwise might apply to the Vested Employee Options (e.g., upon a termination of the account holder's employment with the Issuer) as well as any transfer restrictions that would preclude pledge of the Vested Employee Options to the broker-dealer. In addition, the Issuer will represent that the Vested Employee Options are covered by an effective registration statement on Form S-8. If the registration statement becomes ineffective the Issuer will notify the broker-dealer immediately.

4. Because it is essential that the account holder, broker-dealer and Issuer cooperate and are each fully informed, agree to and acknowledge their own and each other's responsibilities, all Transactions will be governed by an agreement (the "Agreement") entered into by the account holder, broker-dealer and Issuer prior to the Commencement Date of the first transaction. The Agreement would generally set forth each party's obligations, representations and acknowledgements and the terms and conditions governing the Transactions and must be in a form acceptable to the Exchange.⁸

5. Such other terms and conditions prescribed by the Exchange in accordance with such form, formats and procedures as may be established by the Exchange from time to time would also apply. In this regard, upon approval of the proposed rule change and for a period of one year, the Exchange will require that, prior to the Commencement Date, a legal opinion with respect to the account holder's and Issuer's legal right to enter into the Transactions under the terms of the Issuer's employee stock option plan and related documents (the "Legal Opinion") be obtained in a form acceptable to the Exchange. During the one-year time period, the Exchange may determine that such Legal Opinion is no longer necessary and will revise its established forms, formats and procedures accordingly.

2. Statutory Basis

The basis under the Act for this proposed rule change is found in Section 6(b)(5),⁹ in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market

⁵ See http://www.google.com/intl/en/press/pressrel/ir_20061212.html.

⁶ Credit Suisse First Boston, SEC No-Action Letter, 2004 WSB 0712200401 (March 18, 2004).

⁷ The Exchange will proscribe a set delivery period, which is expected to be no later than three business days following assignment of the listed options.

⁸ In this regard, the Exchange currently intends to recognize the Master Vested Stock Option Monetization Agreement, created by iOptions Group, LLC, as one acceptable agreement.

⁹ 15 U.S.C. 78f(b)(5).

and a national market system, and, in general, to protect investors and the public interest. By recognizing that margin should not be required for customers for the transactions contemplated by this proposed rule change, both investors and the listed equity options markets will benefit as a result of greater transparency and liquidity.

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. Specifically the Commission requests comment on the following topics:

- Are there other alternative steps that could be taken that would enhance a broker-dealer's legal authority to exercise the Vested Employee Options and receive the underlying stock? Please describe any such alternatives and why those alternatives may be more consistent with the Act.

- If no margin is required for a Transaction, what steps, if any, should be taken regarding liquidity or operational risks arising from the Transactions? Should the margin rule include a minimum margin requirement?

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-2008-55 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-2008-55. 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-2008-55 and should be submitted on or before June 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-11121 Filed 5-12-09; 8:45 am]

BILLING CODE 8010-01-P

¹⁰ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59881; File No. SR-MSRB-2009-05]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Relating to the Subscription Service for Continuing Disclosure Documents Through the Electronic Municipal Market Access System (EMMA®)

May 7, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 22, 2009, the Municipal Securities Rulemaking Board (the "MSRB") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB has filed with the Commission a proposed rule change to establish a real-time subscription to the document collection of the continuing disclosure service of the MSRB's Electronic Municipal Market Access system ("EMMA").³ The MSRB has requested approval of the proposed rule change on or prior to July 1, 2009.

The text of the proposed rule change is available on the MSRB's Web site at <http://www.msrb.org/msrb1/sec.asp>, at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Commission has previously approved the establishment of the continuing disclosure service of EMMA, which will commence operation on July 1, 2009. See Securities Exchange Act Release No. 59061 (December 5, 2008), 73 FR 75778 (December 12, 2008) (File No. SR-MSRB-2008-05) (approving the continuing disclosure service of EMMA with an effective date of July 1, 2009).

may be examined at the places specified in Item IV below. The MSRB 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 proposed rule change consists of a proposal to establish a real-time subscription to the continuing disclosure document collection. The real-time data stream subscription to the EMMA continuing disclosure service to be provided through a Web service would be made available for an annual fee of \$45,000.⁴ The continuing disclosure subscription service would make available to subscribers all continuing disclosure documents and related information provided by submitters through the EMMA submission process that is posted on the EMMA portal. Such documents and information would be made available to subscribers simultaneously with the posting thereof on the EMMA portal.

Data with respect to the EMMA continuing disclosure service to be provided through the real-time data stream would consist of the following elements, among others and as applicable, as would be more specifically set forth in the EMMA Continuing Disclosure Subscriber Manual posted on the EMMA portal: (i) Submission data, including submission ID and submission transaction date/time; (ii) disclosure indexing data, including disclosure type, financial/operating disclosure category, event disclosure category, other voluntary disclosure description, disclosure dates, and CUSIP numbers; (iii) contact information data, including contact organization type, contact name, address, phone number, and e-mail address; and (iv) document data, including document ID, document posting date, and document status indicator.

The EMMA Continuing Disclosure Subscriber Manual would set forth a complete, up-to-date listing of all data elements made available through the

continuing disclosure subscription service, including detailed definitions of each data element, specific data format information, and information about technical data elements to support transmission and data-integrity processes between EMMA and subscribers.

Subscriptions would be provided through computer-to-computer data streams utilizing XML files for data and files in a designated electronic format (consisting of PDF files) for documents. Appropriate schemas and other technical specifications for accessing the Web services through which the real-time data stream is to be provided would be set forth in the EMMA Continuing Disclosure Subscriber Manual.

The MSRB would make the continuing disclosure subscription service available on an equal and non-discriminatory basis. In addition, the MSRB would not impose any limitations on or additional charges for redistribution of such documents by subscribers to their customers, clients or other end-users. Subscribers would be subject to all of the terms of the subscription agreement to be entered into between the MSRB and each subscriber, including proprietary rights of third parties in information provided by such third parties that is made available through the subscription. The MSRB would not be responsible for the content of the information or documents submitted by submitters distributed to subscribers through the continuing disclosure subscription service.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Exchange Act, which provides that MSRB's rules shall: Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Exchange Act and will serve to promote the statutory mandate of the MSRB to protect investors and the public interest. The EMMA continuing disclosure subscription service would serve as a mechanism by which the MSRB works toward removing impediments to and

helping to perfect the mechanisms of a free and open market in municipal securities. The subscription service would make the indexed comprehensive collection of continuing disclosure documents of the EMMA continuing disclosure service available to marketplace participants for redissemination and for use in creating value-added products and services. Such redissemination and third-party use would provide market participants, including investors and the general public, additional avenues for obtaining these key disclosures and would make additional tools available in making well-informed investment decisions. Broad access to continuing disclosure documents through the subscription service, in addition to the public access available through the EMMA Web portal, should further assist in preventing fraudulent and manipulative acts and practices by improving the opportunity for public investors to access material information about issuers, their securities and the prices at which such securities trade.

Furthermore, broader redissemination and third-party use of continuing disclosure documents should promote a more fair and efficient municipal securities market in which transactions are effected on the basis of material information available to all parties to such transactions, which should allow for fairer pricing of transactions based on a more complete understanding of the terms of the securities (including any changes thereto), changes in circumstances of issuers and obligated persons, and the potential investment risks arising therefrom.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.⁵ The

⁴ The MSRB previously stated in its filing with the Commission in connection with the permanent EMMA continuing disclosure service that it believes that the continuing disclosure service would promote, rather than hinder, further competition, growth and innovation in this area. See Securities Exchange Act Release No. 58256 (July 30, 2008) 73 FR 46161 (August 7, 2008) (File No. SR-MSRB-2008-05) (proposing the establishment of the continuing disclosure service of EMMA). See also Securities Exchange Act Release No. 59061 (December 5, 2008), 73 FR 75778 (December 12, 2008) (File No. SR-MSRB-2008-05) (approving the continuing disclosure service of EMMA with an effective date of July 1, 2009). The MSRB stated that it believes that the benefits realized by the investing public from the broader and easier availability of disclosure information about municipal securities that would be provided

⁴ The proposed subscription price would cover a portion of the administrative, technical and operating costs of the EMMA continuing disclosure subscription service but would not cover all costs of such subscription service or of the EMMA continuing disclosure service. The MSRB has proposed establishing the subscription price at a fair and reasonable level consistent with the MSRB's objective that subscriptions be made available on terms that promote the broad dissemination of documents and data throughout the marketplace.

proposed rule change would make the continuing disclosure subscription service available to all persons on an equal and non-discriminatory basis. The documents and information provided through the subscription service would be available to all subscribers simultaneously with their availability through the EMMA Web portal. In addition to making the documents and information available for free on the EMMA Web portal to all members of the public, the MSRB would make continuing disclosure documents and information available by subscription on an equal and non-discriminatory basis without imposing restrictions on subscribers from, or imposing additional charges on subscribers for, re-disseminating such documents or otherwise offering value-added services and products based on such documents on terms determined by each subscriber.⁶ The MSRB believes that the proposed rule change would promote increased competition among information services in the marketplace resulting from the entry of additional commercial enterprises.

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 on the proposed rule change. However, in a notice published by the MSRB on January 31, 2008, the MSRB described and sought comment on its plan for implementing a continuing disclosure service that would be integrated into other services to be offered through EMMA (the "2008 Notice").⁷ In particular, the MSRB stated its plan to institute the continuing disclosure service to accept submissions of continuing disclosure documents pursuant to continuing disclosure undertakings consistent with Rule 15c2-12. In addition to making continuing disclosures available at no cost through the EMMA portal, the MSRB would make such disclosures

through the EMMA continuing disclosure service would justify any potentially negative impact on existing enterprises from the operation of EMMA.

⁶ The MSRB notes that subscribers may be subject to proprietary rights of third parties in information provided by such third parties that is made available through the subscription.

⁷ See MSRB Notice 2008-05 (January 31, 2008). The comments received on this notice are discussed in SR-MSRB-2008-05 (July 29, 2008). See also Securities Exchange Act Release No. 58256 (July 30, 2008), 73 FR 46161 (August 7, 2008) (File No. SR-MSRB-2008-05) (proposing the establishment of the continuing disclosure service of EMMA). Comments relating to voluntary filings of continuing disclosure documents not contemplated under Exchange Act Rule 15c2-12 are discussed herein.

available through a paid real-time data stream subscription for redissemination or other use by subscribers. One commentator asked whether periodic filings other than submissions of annual financial information, such as quarterly or monthly financial results, would be accepted.⁸ Another commentator stated that it strongly believed that EMMA should be capable of housing all disclosure documents, extending beyond those specifically required by Rule 15c2-12, and could only support a system that allows access to other pertinent information.⁹ The MSRB supports the dissemination of additional continuing disclosures beyond the baseline established by Rule 15c2-12 and is providing for such submission and dissemination in this filing.

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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

The MSRB has requested that the Commission approve the proposed rule change on or prior to July 1, 2009.

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 Exchange 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-MSRB-2009-05 on the subject line.

⁸ See letter from Robert Donovan and Stephen M. Fillebrown, National Association of Health and Education Facilities Finance Authorities, to Ernesto A. Lanza, Senior Associate General Counsel, MSRB, dated March 3, 2008.

⁹ See letter from Rob Yolland, Chairman, National Federation of Municipal Analysts, to Mr. Lanza, dated March 10, 2008.

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-MSRB-2009-05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the MSRB. 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 No. SR-MSRB-2009-05 and should be submitted on or before June 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,
Deputy Secretary.

[FR Doc. E9-11119 Filed 5-12-09; 8:45 am]

BILLING CODE 8010-01-P

¹⁰ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59882; File No. SR-ISE-2009-21]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange, LLC Relating To Changes to the Fee Schedule

May 7, 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 April 27, 2009, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 is proposing to amend its Schedule of Fees to eliminate customer fees in Premium Products that are multiply listed, retire a pilot program capping fees for use of the Exchange's Facilitation Mechanism and eliminate a volume-based fee rebate for Electronic Access Members. The text of the proposed rule change is available on the Exchange's Internet Web site at <http://www.ise.com>.

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

Purpose—The purpose of this proposed rule change is to eliminate customer fees in multiply listed Premium Products, retire a pilot program capping fees for use of the Exchange's Facilitation Mechanism and eliminate a volume-based fee rebate for Electronic Access Members. These changes will be operative on May 1, 2009.

First, ISE currently charges \$0.18 per contract for customer transactions in Premium Products. Generally, Premium Products are options on exchange-traded funds (“ETFs”) and index options. For competitive reasons, the Exchange historically has waived most customer transaction fees and now proposes to do the same for all Premium Products that are multiply listed. The Exchange will continue to charge \$0.18 per contract for all index options that are listed only on ISE and for all of the Exchange's foreign currency options. ISE believes this fee change will align its pricing to better compete with other exchanges in these products. As a result of this change, the Exchange will no longer publish a list of Premium Products on its Schedule of Fees.³

Second, pursuant to a pilot program, ISE currently offers a fee discount for certain orders of 7,500 contracts or more that are executed in the Exchange's Facilitation Mechanism.⁴ Specifically, ISE waives (1) the execution fee on incremental volume above 7,500 contracts for Firm Proprietary orders, Non-ISE Market Maker orders, Customer orders in Premium Products, and Customer orders in Second Market options. The objective of this pilot program was to encourage members to use the Exchange's Facilitation Mechanism. The Exchange has determined to retire this pilot program.

Finally, on October 1, 2008, ISE adopted a sliding scale-based fee credit that rewards Electronic Access Members for the total amount of order flow sent to the Exchange.⁵ The sliding scale

applies to all customer and firm proprietary orders in all products and is calculated on a member firm basis, and applies to non-discounted volume only, that is, it does not apply to orders previously discounted by other pricing incentives established by the Exchange. The objective of this fee rebate program was to attract order flow to the Exchange. Upon a careful review, the ISE believes that eliminating fees for customer transactions in multiply listed Premium Products will better attract order flow to the Exchange.

(b) *Basis*—The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,⁶ in general, and furthers the objectives of Section 6(b)(4),⁷ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the fee changes proposed by this filing will allow the Exchange to better compete with other exchanges and better attract order flow to ISE.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act⁸ and Rule 19b-4(f)(2)⁹ thereunder. 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.

57722 (October 3, 2008).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 19b-4(f)(2). [sic]

³ The Commission notes that on May 5, 2009, ISE filed a separate proposed rule change (File No. SR-ISE-2009-26) to clarify the newly defined “Singly Listed Indexes” by listing on its fee schedule the applicable ticker symbol for each such index. In addition, that proposal reverts back to identifying by ticker symbols those products to which the Exchange's Payment for Order Flow fee does not apply and it proposes to adopt a fee for “Singly Listed ETFs” and identify those products by their ticker symbol.

⁴ See Securities Exchange Act Release No. 57129 (January 10, 2008), 73 FR 2963 (January 16, 2008).

⁵ See Securities Exchange Act Release No. 58671 (September 29, 2008), 73 FR

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR-ISE-2009-21 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 No. SR-ISE-2009-21. 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 changes 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 ISE. 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 No. SR-ISE-2009-21 and should be submitted on or before June 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-11169 Filed 5-12-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59879; File No. SR-NASDAQ-2009-041]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the NASDAQ Market Center and NASDAQ Options Market

May 6, 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 May 1, 2009, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, 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

NASDAQ proposes to modify pricing for NASDAQ members using the Nasdaq Market Center. This proposed rule change, which is effective upon filing, will become operative on May 1, 2009. The text of the proposed rule change is available at <http://nasdaqomx.cchwallstreet.com/>, at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

NASDAQ is modifying the price of trading equities and options on NASDAQ in several ways. First, NASDAQ is increasing the rebate for providing liquidity in equities traded on NASDAQ for members that actively trade both equities and options on NASDAQ. Currently, NASDAQ offers rebates of \$0.0020 to \$0.00295 per share for all members that provide liquidity in equities traded on NASDAQ depending on the volume of liquidity provided in equities.

Effective May 1, 2009, a member firm that accesses liquidity of more than 200,000 contracts per day from The NASDAQ Options Market ("NOM") and provides average daily volume of liquidity exceeding 25 million shares per day in the NASDAQ equities market, will be credited a rebate of \$0.0029 for providing liquidity in securities listed on NASDAQ or the New York Stock Exchange ("NYSE") or on other exchanges. A member that provides 25 million shares of liquidity per day in equities and does not have the requisite options participation receives a rebate of \$0.0025 per share.

Second, also effective May 1, 2009, member firms will have the opportunity to earn a waiver of applicable fees charged for executing Mid-point Pegged orders (as defined in Nasdaq Rule 4751(f)(4)). Firms can earn this fee waiver by providing average daily volume of liquidity through the Nasdaq Market Center in all securities during the month of more than 125 million shares.

Third, NASDAQ is implementing pricing for the routing strategy set forth in Nasdaq Rule 4758(a)(1)(A)(i), as set forth in SR-NASDAQ-2009-036.³ Specifically, NASDAQ modified Rule 4758, Order Routing, to provide market participants with the option of entering orders that do not check the Nasdaq Market Center book prior to routing. Market participants using that routing strategy for all securities will be assessed a fee of \$0.0005 per share executed for orders that execute on venues other than in the NYSE or NASDAQ OMX BX. For securities that utilize this strategy and that execute on

³ Securities Exchange Act Release No. 59807 (Apr. 21, 2009); 74 FR 19251 (Apr. 28, 2009).

NASDAQ OMX BX, NASDAQ will pass-through the fees or rebates currently assessed by NASDAQ OMX BX or \$0.0006 rebate per share executed for Nasdaq-listed and NYSE-listed securities and \$0.0014 charge per share executed for other securities. An order that is routed but does not execute and is returned to the Nasdaq Market Center will be assessed fees or provided rebates consistent with those approved for orders that execute or provide liquidity on the Nasdaq Market Center.

Fourth, NASDAQ is also eliminating from Rule 7018 all provisions related to process that were in effect from April 1 through April 14, 2009.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁴ in general, and with Section 6(b)(4) of the Act,⁵ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. The proposed fee change applies uniformly to all similarly situated NASDAQ members. The impact of the changes upon the net fees paid by a particular market participant will depend upon a number of variables, including its monthly volume in equities and options, the prices of its quotes and orders (*i.e.*, its propensity to add or remove liquidity) in equities and options, and the listing venue for the securities that it trades.

NASDAQ notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a significant reduction in the overall cost of trading on NASDAQ. NASDAQ believes that the applicable fees and credits remain competitive with those charged by other venues and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to NASDAQ rather than competing venues.

NASDAQ is also responding to the convergence of trading in which members simultaneously trade different asset classes within a single strategy. This has been true of equities and options trading which is increasing, and is now visible in equities and futures trading. For example, on April 1, 2009, NYSE Euronext LLC announced the "Futures Incentive Program" or "FIP"

which coordinates fee schedules between NYSE Liffe US and NYSE Arca with respect to trading gold and silver futures contracts on NYSE Liffe US and gold and silver based exchange traded funds on NYSE Arca. Like the NYSE Euronext FIP proposal, NASDAQ's current proposal enables NASDAQ members to continue to recognize the full benefit of trading on NASDAQ.

Additionally, NASDAQ and its members will both recognize additional operational and administrative efficiencies from linking the billing of equities and options trading. In addition to the efficiencies associated with existing volume discounts for equities trading, this proposal will enable NASDAQ to issue a single invoice to replace two invoices in various circumstances.

Finally, this proposal is voluntary with respect to all firms and should be considered as one among many alternatives within NASDAQ's current tiered pricing structure. For example, Nasdaq is offering to waive execution fees for Mid-point Pegged Orders for firms with high equities trading volume. This fee waiver lowers the total cost of trading on Nasdaq, and responds to a similar waiver by the ArcaNYSE [sic] Exchange.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act⁶ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁷ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2009-041 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-NASDAQ-2009-041. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2009-041 and should be submitted on or before June 3, 2009.

⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78s(b)(3)(a)(ii) [sic].

⁷ 17 CFR 240.19b-4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-11164 Filed 5-12-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59872; File No. SR-FINRA-2009-026]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Implement Non-Substantive Changes to the Code of Arbitration Procedure for Customer Disputes and the Code of Arbitration Procedure for Industry Disputes

May 6, 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 Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“SEC” or “Commission”) on April 17, 2009, the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by 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 Substance of the Proposed Rule Change

FINRA is proposing to amend the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) to correct typographical errors and implement other non-substantive technical changes. The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

FINRA is proposing several technical amendments to the Customer and Industry Codes that would correct typographical errors and implement other non-substantive changes. FINRA will discuss the proposed changes as they appear in the Codes, beginning with the proposed amendments to the Customer Code.

Proposed Technical Amendments to the Customer Code

Rule 12504—Motions to Dismiss

On December 31, 2008, the Commission approved new Rules 12504 and 13504 and amendments to Rules 12206 and 13206, which establish procedures that govern motions to dismiss.⁴ FINRA is proposing to amend Rule 12504(b) to make a conforming change to the reference to “subparagraph (a)” in the rule. In other rules of the Code, FINRA refers to lettered provisions by “paragraph,” not “subparagraph.” Thus, for consistency in the Codes, FINRA is proposing to change the reference in Rule 12504(b) to “paragraph (a).”

Rule 12514—Pre-Hearing Exchange of Documents and Witness Lists Before Hearing

FINRA is proposing to conform the spelling of the term “pre-hearing” in the title of Rule 12514 to other instances in the Codes where it is spelled without the hyphen. Thus, the term “pre-hearing” would be changed to “prehearing.”

Rule 12904(g)—Explained Decisions

On February 4, 2009, the SEC approved a proposal to amend Rule

12904 of the Customer Code and Rule 13904 of the Industry Code to require arbitrators to provide an explained decision upon the joint request of the parties.⁵ FINRA is proposing to correct a typographical error in Rule 12904(g)(2). The relevant sentence of the rule states that “an explained decision is a fact-based award stating the general reasons(s) for the arbitrators’ decision.” The word “reasons(s)” should be changed to “reason(s).”

FINRA is also proposing to correct a typographical error in Rule 12904(g)(6). The paragraph states that “this paragraph (g) will not apply to simplified cases decided without a hearing under Rules 12800 or to default cases conducted under Rule 12801.” The phrase “Rules 12800” should be changed to “Rule 12800.” Further, FINRA is proposing to change the term “pre-hearing” in Rule 12904(g)(3) to “prehearing” to conform the spelling with other instances in the Codes.

Proposed Technical Amendments to the Industry Code⁶

Rule 13504—Motions To Dismiss

For an explanation of the proposed amendment, see the relevant section under “Proposed Technical Amendments to the Customer Code” above.

Rule 13514—Pre-Hearing Exchange of Documents and Witness Lists Before Hearing

For an explanation of the proposed amendment, see the relevant section under “Proposed Technical Amendments to the Customer Code” above.

Rule 13904(g)—Explained Decisions

For an explanation of the proposed amendment, see the relevant section under “Proposed Technical Amendments to the Customer Code” above.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions

⁵ See Securities Exchange Act Release No. 59358 (February 4, 2009); 74 FR 6928 (February 11, 2009) (Order Approving File No. SR-FINRA-2008-051).

⁶ Most rules of the Customer and Industry Codes are identical, except for panel composition, references to document production lists that apply only in customer cases, and rules relating to employment discrimination and injunctive relief that apply only to industry claims. Wherever possible, the last three digits of the rule numbers in the Customer and Industry Codes are the same. Thus, the explanations in this filing for the proposed amendments in the Customer Code also apply to the proposed amendments in the Industry Code.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ See Securities Exchange Act Release No. 59189 (December 31, 2008), 74 FR 731 (January 7, 2009) (Order Approving File No. SR-FINRA-2007-021).

of Section 15A(b)(6) of the Act,⁷ which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will assist in the efficient administration of arbitrations by correcting typographical errors in its rules and ensuring consistent spelling of terms throughout the Codes. FINRA believes these technical, non-substantive amendments will enhance the Codes by making them easier to understand and apply.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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 by FINRA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹ A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Such waiver would permit FINRA to implement these changes without delay, making the Codes easier to understand and apply. The Commission believes it is

consistent with the protection of investors and the public interest to waive the 30-day operative delay for this reason, and hereby grants such waiver.¹²

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-FINRA-2009-026 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-FINRA-2009-026. 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 FINRA. 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 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 the File Number SR-FINRA-2009-026 and should be submitted on or before June 3, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-11120 Filed 5-12-09; 8:45 am]

BILLING CODE 8010-01-P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2009-0033]

Occupational Information Development Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of upcoming quarterly panel meeting.

DATES: June 10, 2009, 8:30 a.m.–5 p.m. (CDT); and June 11, 2009, 8:30 a.m.–12 p.m. (CDT).

Location: Hyatt Regency McCormick Place.

ADDRESSES: 2233 South Martin L. King Drive, Chicago, IL 60616.

SUPPLEMENTARY INFORMATION:

Type of meeting: The meeting is open to the public.

Purpose: This discretionary Panel, established under the Federal Advisory Committee Act of 1972, as amended, shall report to the Commissioner of Social Security. The Panel will provide independent advice and recommendations on plans and activities to replace the Dictionary of Occupational Titles used in the Social Security Administration's (SSA) disability determination process. The Panel will advise the Agency on creating an occupational information system tailored specifically for SSA's disability programs and adjudicative needs. Advice and recommendations will relate to SSA's disability programs in the following areas: Medical and vocational analysis of disability claims; occupational analysis, including definitions, ratings and capture of physical and mental/cognitive demands of work and other occupational information critical to SSA disability programs; data collection; use of

⁷ 15 U.S.C. 78o-3(b)(6).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ *Id.*

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ 17 CFR 200.30-3(a)(12).

occupational information in SSA's disability programs; and any other area(s) that would enable SSA to develop an occupational information system suited to its disability programs and improve the medical-vocational adjudication policies and processes.

Agenda: The Panel will meet on Wednesday, June 10, 2009, from 8:30 a.m. until 5 p.m. (CDT) and Thursday, June 11, 2009, from 8:30 a.m. until 12 p.m. (CDT). The agenda will be available on the Internet at <http://www.socialsecurity.gov/oidap/> one week prior to the meeting.

The tentative agenda for this meeting includes: Presentations by stakeholder organizations for the purpose of identifying perceived gaps that currently exist between the occupational information available in the DOT and that is believed necessary to adjudicate claims in SSA's disability programs to ensure a proper assessment of the claimants' abilities to do their past work and, if not, their abilities to do any other work in the economy given the claimants' work histories and the physical, mental, or cognitive limitations resulting from claimants' impairments. There will be discussion and identification of areas where additional or new occupational information is needed, for example, as it relates to the physical or mental demands of work, educational requirements of work, work settings, and work skills. The Panel will hear presentations on taxonomic issues and proposed methodologies for developing a classification system. The Panel will discuss and deliberate on issues relevant to the Panel's recommendations and hold an administrative business meeting.

The Panel will hear public comment during the Quarterly Meeting on Wednesday, June 10, 2009, from 2:30 p.m. to 3:30 p.m. (CDT). Members of the public must schedule a time slot—assigned on a first come, first served basis—in order to comment. In the event public comment does not take the entire time allotted, the Panel may use any remaining time to deliberate or conduct other Panel business.

Persons interested in providing testimony in person at the meeting or via teleconference should contact the Panel staff by e-mail to OIDAP@ssa.gov. Individuals are limited to a maximum five minute, verbal presentation. Organizational representatives will be allotted a maximum ten minute verbal presentation. Written testimony, no longer than five (5) pages, may be submitted at any time either in person, mail, fax or e-mail to OIDAP@ssa.gov for Panel consideration.

Seating is limited. Individuals who need special accommodation in order to attend or participate in the meeting (e.g., sign language interpretation, assistive listening devices, or materials in alternative formats, such as large print or CD) should notify Debra Tidwell-Peters via e-mail to debra.tidwell-peters@ssa.gov or by telephone at 410-965-9617, no later than May 25, 2009. SSA will attempt to meet requests made but cannot guarantee availability of services. All meeting locations are barrier free.

If you want to access the meeting by teleconference, please send your name and contact information to OIDAP@ssa.gov one week prior to the start date of the meeting.

Contact Information: Records of all public Panel proceedings are maintained and available for inspection. Anyone requiring further information should contact the Panel staff at: Occupational Information Development Advisory Panel, Social Security Administration, 6401 Security Boulevard, 3-E-26 Operations, Baltimore, MD 21235-0001. Telephone: 410-965-9617. Fax: 410-597-0825. E-mail to OIDAP@ssa.gov. For additional information, please visit the Panel Web site at <http://www.ssa.gov/oidap>.

Dated: May 6, 2009.

Debra Tidwell-Peters,

Designated Federal Officer, Occupational Information Development Advisory Panel.

[FR Doc. E9-11068 Filed 5-12-09; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF STATE

[Public Notice: 6613]

Notice of Request for Public Comment and Submission to OMB of Proposed Collection of Information

Title: 30-Day Notice of Proposed Information Collection: DS-260, Electronic Application for Immigrant Visa and Alien Registration, OMB Control Number 1405-XXXX.

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- **Title of Information Collection:** Electronic Application for Immigrant Visa and Alien Registration.
- **OMB Control Number:** None.
- **Type of Request:** New Collection.

- **Originating Office:** Department of State, Bureau of Consular Affairs, Visa Services.

- **Form Number:** DS-260.

- **Respondents:** Aliens applying for an immigrant visa.

- **Estimated Number of Respondents:** 700,000.

- **Estimated Number of Responses:** 700,000.

- **Average Hours per Response:** 120 minutes (2 hours).

- **Total Estimated Burden:** 1,400,000 hours per year.

- **Frequency:** Once per respondent.

- **Obligation to Respond:** Required or Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from May 13, 2009.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202-395-4718. You may submit comments by any of the following methods:

- **E-mail:** kastrich@omb.eop.gov. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

- **Mail** (paper, disk, or CD-ROM submissions): Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.

- **Fax:** 202-395-6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Andrea B. Lage, Visa Services, U.S. Department of State, 2401 E. Street, NW., L-603, Washington, DC 20522, who may be reached at (202) 663-1399.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform 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.

Abstract of proposed collection: Form DS-260 will be used to elicit information necessary to determine the eligibility of aliens applying for immigrant visas.

Methodology:

The DS-260 will be submitted electronically to the Department via the Internet. The applicant will be instructed to print a confirmation page containing a 2-D bar code record locator, which will be scanned at the time of processing. Applicants who submit the electronic application will no longer submit paper-based applications to the Department.

Dated: April 29, 2009.

David T. Donahue,

Deputy Assistant Secretary, Department of State.

[FR Doc. E9-11178 Filed 5-12-09; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice: 6611]

30-Day Notice of Proposed Information Collection: DS 5507, Affidavit of Parentage, Physical Presence and Support, (New-OMB No. 1405-XXXX)

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* DS 5507, Affidavit of Parentage, Physical Presence and Support.

- *OMB Control Number:* New-OMB No. 1405-XXXX.

- *Type of Request:* New Collection.

- *Originating Office:* Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS).

- *Form Number:* DS-5507.

- *Respondents:* United States Citizens.

- *Estimated Number of Respondents:* 15,026.

- *Estimated Number of Responses:* 15,026.

- *Average Hours per Response:* 30 minutes.

- *Total Estimated Burden:* 7,513 hours.

- *Frequency:* On Occasion.

- *Obligation to Respond:* Application for Benefits. Although acquisition of citizenship is not a federal "benefit," applicants will not be able to obtain citizenship for their child(ren) if they do not provide the information requested in the form.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from May 13, 2009.

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

- *E-mail:* ASKPRI@state.gov.

- *Mail (paper, disk, or CD-ROM submissions):* U.S. Department of State, CA/OCS/PRI, SA-29, 4th Floor, Washington, DC 20520.

- *Fax:* 202-736-9111.

- *Hand Delivery or Courier:* U.S. Department of State, CA/OCS/PRI, 2100 Pennsylvania Avenue, 4th Floor, Washington, DC 20037.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Derek A. Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PRI), U.S. Department of State, SA-29, 4th Floor, Washington, DC 20520, who may be reached on (202) 736-9082 or ASKPRI@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.

Abstract of Proposed Collection

The purpose of the information collection is to determine if U.S. citizen/national parent(s) possesses the requisite physical presence or residence in the United States prior to their child's birth to transmit U.S. citizenship (or U.S. non-citizen nationality) to the child, to establish parentage of the child, and to fulfill the requirements of 8 U.S.C. 1409(a) which requires a written statement of financial support to be provided by U.S. citizen fathers for children born out of wedlock.

Methodology

The information is collected in person. The Bureau of Consular Affairs is currently exploring options to make this information collection available electronically.

Dated: April 13, 2009.

Mary Ellen Hickey,

Managing Director, Bureau of Consular Affairs, Department of State.

[FR Doc. E9-11180 Filed 5-12-09; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice: 6612]

Notice of Request for Public Comments; 30-Day Notice of Proposed Information Collection: DS-261, Electronic Choice of the Address and Agent, OMB Control Number 1405-XXXX

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Electronic Choice of Address and Agent

- *OMB Control Number:* None

- *Type of Request:* New Collection

- *Originating Office:* Department of State, Bureau of Consular Affairs

- *Form Number:* DS-261

- *Respondents:* Aliens applying for immigrant visas

- *Estimated Number of Respondents:* 700,000

- *Estimated Number of Responses:* 700,000

- *Average Hours per Response:* 10 minutes

- *Total Estimated Burden:* 166,666 hrs. per year

- *Frequency:* Once per respondent

- *Obligation to Respond:* Required to Obtain or Retain Benefit

DATES: Submit comments to the Office of Management and Budget (OMB) up to June 12, 2009.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202-395-4718. You may submit comments by any of the following methods:

- *E-mail:* kastrich@omb.eop.gov. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

- *Mail (paper, disk, or CD-ROM submissions):* Office of Information and Regulatory Affairs, Office of

Management and Budget, 725 17th Street, NW., Washington, DC 20503.

- Fax: 202-395-6974

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Andrea B. Lage, Visa Services, U.S. Department of State, 2401 E Street, NW., L-603, Washington, DC, 20522, who may be reached at (202) 663-1399.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform 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.

Abstract of Proposed Collection

The DS-261 allows the beneficiary of an approved and current immigrant visa petition to provide the Department with his or her current address, which will be used for communications with the beneficiary. The DS-261 also allows the beneficiary to appoint an agent to receive mailings from the National Visa Center (NVC) and assist in the filing of various application forms and/or paying the required fees. The beneficiary is not required to appoint an agent but must provide current contact information. All cases will be held at NVC until the DS-261 is electronically submitted to the Department. If the form is not electronically submitted to the Department within one year, NVC will begin the case termination process.

Methodology

The DS-261 will be submitted electronically to the Department via the internet. Respondents who submit the electronic form will no longer submit paper-based forms to the Department.

Dated: April 29, 2009.

David T. Donahue,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E9-11182 Filed 5-12-09; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice 6600]

Shipping Coordinating Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Friday, June 19, 2009 in Room 4420 of the United States Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC 20593. The purpose of this meeting will be to finalize preparations for the 59th Session of the Technical Co-Operation Committee (TC 59) of the International Maritime Organization (IMO) and the 102nd Session of the IMO's Council (C 102).

The 59th Session of the Technical Co-Operation (TC) Committee is scheduled to be held 23-25 June 2009 at IMO's London headquarters. Agenda items for TC 59 include:

Integrated Technical Co-operation Programme: Interim report on 2008-2009;
Linkage between the Integrated Technical Co-operation Programme and the Millennium Development Goals;
Integrated Technical Co-operation Programme for 2010-2011;
Technical Co-operation Fund: Integrated Technical Co-operation Programme allocation for 2010-2011;
Financing the Integrated Technical Co-operation Programme;
Impact Assessment Exercise 2004-2007: Follow-up;
Partnerships for progress;
Voluntary IMO Member State Audit Scheme;
Programme on the integration of women in the maritime sector;
Institutional development and fellowships;
Report on the planned outputs of the Committee for 2008-2009;
Work of other bodies and organizations; and
Election of the Chairman and Vice-Chairman for 2010.

The 102nd Session of the Council is scheduled to be held 29 June-3 July, 2009 at IMO's London headquarters. Agenda items for C 102 include:
Strategy and planning (monitoring of performance and risk management);
Organizational reforms;
Resource management;
Voluntary IMO Member State Audit Scheme;
Technical Co-operation Fund (biennial allocation to support the ITCP Programme for 2010-2011);
Results-based budget for the twenty-sixth financial period 2010-2011;

Consideration of the reports of the Maritime Safety Committee;
Consideration of the report of the Facilitation Committee;
Consideration of the report of the Legal Committee;
Consideration of the report of the Technical Co-operation Committee;
Report on the 2009 International Conference on the Safe and Environmentally Sound Recycling of Ships;
Protection of vital shipping lanes;
World Maritime University (Report of the Governing Board and Budget);
IMO International Maritime Law Institute (Report of Governing Board and Budget);
Assembly matters;
External relations;
Report on the status of the Convention and membership of the Organization;
Report on the status of conventions and other multilateral instruments in respect of which the Organization performs functions; and
Date and place of the next session of the Council.

Members of the public may attend the June 19th meeting of the SHC up to the seating capacity of the room. Please note that due to security considerations, two valid, government-issued photo identification documents must be presented to gain entrance to the building. The Coast Guard Headquarters building is accessible by taxi and privately owned conveyance. Please note that parking in the vicinity of the building is extremely limited and that public transportation is not generally available.

To facilitate attendance to this meeting of the SHC, those who plan to attend should contact the meeting coordinator, LCDR Jason Smith—not later than 4 p.m. on Monday, June 15, 2009—by e-mail at jason.e.smith2@uscg.mil; by phone at (202) 372-1376; or by writing to Commandant (CG-5212), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Room 1308, Washington, DC 20593-0001. Additional information regarding this and other SHC public meetings and associated IMO meetings may be found at: <http://www.uscg.mil/hq/cg5/imo>.

Dated: May 6, 2009.

Mark Skolnicki,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. E9-11176 Filed 5-12-09; 8:45 am]

BILLING CODE 4710-09-P

**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket No. USTR-2008-0036]

**Additional Delay in Modification of
Action Taken in Connection with WTO
Dispute Settlement Proceedings on the
European Communities' Ban on
Imports of U.S. Beef and Beef Products**

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and modification of action.

SUMMARY: On January 15, 2009, the United States Trade Representative ("Trade Representative") announced modifications ("January 15 modifications") to the action taken in July 1999 in connection with the World Trade Organization ("WTO") authorization of the United States in the *EC-Beef Hormones* dispute to suspend concessions and related obligations with respect to the European Communities ("EC"). See 74 FR 4265 (Jan. 23, 2009). The January 15 modifications initially had an effective date of March 23, 2009. The Trade Representative subsequently delayed the effective date of the additional duties imposed under the January 15 modifications until April 23, 2009, and then to May 9, 2009. The effective date of the removal of duties under the January 15 modifications remained March 23, 2009. See 74 FR 11613 (March 18, 2009); 74 FR 12402 (March 24, 2009); 74 FR 19263 (April 28, 2009). On May 6, 2009, the United States and the European Commission announced an "agreement in principle" regarding the dispute. The first phase of the agreement provides that the United States will not apply retaliatory duties greater than those currently in effect. In order to allow time to complete the procedures under the Trade Act of 1974, as amended (Trade Act), that are needed to prevent the application of the additional duties under the January 15 modifications, the Trade Representative has decided to delay the effective date of the additional duties from May 9, 2009 to August 15, 2009.

DATES: Effective Date: The additional duties under the January 15 modifications shall be effective with respect to products that are entered, or withdrawn from warehouse, for consumption on or after August 15, 2009. However, assuming the agreement in principle enters into force, USTR intends to take further steps under the Trade Act to prevent the application of the additional duties.

FOR FURTHER INFORMATION CONTACT: Roger Wentzel, Director, Agricultural

Affairs, (202) 395-6127 or David Weiner, Director for the European Union, (202) 395-4620 for questions concerning the *EC-Beef Hormones* dispute; or William Busis, Associate General Counsel and Chair of the Section 301 Committee, (202) 395-3150, for questions concerning procedures under Section 301.

SUPPLEMENTARY INFORMATION: For background concerning the *EC-Beef Hormones* WTO dispute; the January 15 modifications; and the prior delays in the effective date of the modifications, see 74 FR 4265 (Jan. 23, 2009), 74 FR 11613 (March 18, 2009), 74 FR 12402 (March 24, 2009), and 74 FR 19263 (April 28, 2009).

Pursuant to Section 305 of the Trade Act of 1974, the Trade Representative has determined that a further delay in implementation of the January 15 modifications would be desirable to obtain a satisfactory solution with respect to the EC's ban on U.S. beef. Accordingly, the Trade Representative has decided to delay the effective date of the additional duties imposed under the January 15 modifications from May 9, 2009 to August 15, 2009. The actions to be delayed are: (i) The imposition of increased duties on additional products, (ii) the application to products of additional EC member States of the increased duties on currently covered products, and (iii) the increase in the level of duties on one of the products that is being maintained on the product list. These are the same actions that were previously delayed until May 9, 2009.

The increased duties under the January 15 modifications are set out in Annex II of the notice published at 74 FR 12402 (March 24, 2009), as modified by the notice published at 74 FR 19263 (April 28, 2009). In order to delay the effective date of the increased duties until August 15, 2009, the Trade Representative has decided that the modifications to the Harmonized Tariff Schedule of the United States that are contained in Parts A and B of Annex II shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after August 15, 2009. Any merchandise covered under Part B of Annex II of the notice published at 74 FR 12402 that is admitted to a U.S. foreign-trade zone on or after August 15, 2009 must be admitted in "privileged foreign status" as defined in 19 CFR 146.41, unless further steps are taken under the Trade Act with respect to these products. Questions concerning customs matters may be directed to Renee Chovanec, International Coordination, Office of

International Trade, U.S. Customs and Border Protection, 202-863-6384.

William Busis,

Chair, Section 301 Committee.

[FR Doc. E9-11173 Filed 5-12-09; 8:45 am]

BILLING CODE 3190-W9-P

DEPARTMENT OF TRANSPORTATION
**National Highway Traffic Safety
Administration**

[U.S. DOT Docket Number NHTSA-2009-0044]

**Reports, Forms and Recordkeeping
Requirements; Agency Information
Collection Activity Under OMB Review**

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before June 12, 2009.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001. Please identify the proposed collection of information for a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Sean H. McLaurin, NHTSA, 1200 New Jersey Avenue, SE., Room W55-123, NVS-420, Washington, DC 20590. Mr. McLaurin's telephone number is (202) 366-4800. Please identify the relevant collection of

information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 30-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has regulations describing what must be included in such a document. Under OMB's regulation (at 5CFR 1320.8(d)), an agency must ask for public comment on the following:

(i.) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii.) The accuracy the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii.) How to enhance the quality, utility, and clarity of the information to be collected;

(iv.) How to minimize the burden of the collection of information on those who are to respond including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Extension of Clearance.

OMB Control Number: 2127-0001.

Affected Public: State, Local, or Tribal Government.

Form Number: This collection of information uses no standard form.

Abstract: The purpose of the NDR is to assist States and other authorized users in obtaining information about problem drivers. State motor vehicle agencies submit and use the information for driver licensing purposes. Other users obtain the information for transportation safety purposes.

Estimated Annual Burden: 4157

Number of Respondents: The number of respondents is 51—the fifty States and the District of Columbia.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection;

ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondent, including the use of automated collection techniques or other forms of information technology.

Issued on May 7, 2009.

Dennis Utter,

Office Director for the Office of Traffic Records and Analysis.

[FR Doc. E9-11147 Filed 5-12-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

[Docket No. FRA-2009-0001-N-10]

Notice and Request for Comments

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and Request For Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burdens. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on March 3, 2009 (74 FR 9331).

DATES: Comments must be submitted on or before June 12, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493-6292), or Ms. Nakia Jackson, Office of Information Technology, RAD-20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6073). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On March 3,

2009, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 74 FR 9331. FRA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)-(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Railroad Signal System Requirements.

OMB Control Number: 2130-0006.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Abstract: The regulations pertaining to railroad signal systems are contained in 49 CFR Parts 233 (Signal System Reporting Requirements), 235 (Instructions Governing Applications For Approval of A Discontinuance or Material Modification of a Signal System), and 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Systems, Devices, and Appliances). Section 233.5 provides that each railroad must report to FRA within 24 hours after learning of an accident or incident arising from the failure of a signal appliance, device, method, or system to function or indicate as required by Part 236 of this Title that results in a more favorable aspect than intended or other condition hazardous to the movement of a train. Section 233.7 sets forth the specific requirements for reporting signal

failures within 15 days in accordance with the instructions printed on Form FRA F 6180.14. Finally, Section 233.9 sets forth the specific requirements for the "Signal System Five Year Report." It requires that every five years each railroad must file a signal system status report. The report is to be prepared on a form issued by FRA in accordance with the instructions and definitions provided. Title 49, Part 235 of the Code of Federal Regulations, sets forth the specific conditions under which FRA approval of modification or discontinuance of railroad signal systems is required and prescribes the methods available to seek such approval. The application process prescribed under Part 235 provides a vehicle enabling FRA to obtain the necessary information to make logical and informed decisions concerning carrier requests to modify or discontinue signaling systems. Section 235.5 requires railroads to apply for FRA approval to discontinue or materially modify railroad signaling systems. Section 235.7 defines material modifications and identifies those changes that do not require agency approval. Section 235.8 provides that any railroad may petition FRA to seek relief from the requirements under 49 CFR Part 236. Sections 235.10, 235.12, and 235.13 describe where the petition must be submitted, what information must be included, the organizational format, and the official authorized to sign the application. Section 235.20 sets forth the process for protesting the granting of a carrier application for signal changes or relief from the rules, standards, and instructions. This section provides the information that must be included in the protest, the address for filing the protest, the time limit for filing the protest, and the requirement that a person requesting a public hearing explain the need for such a forum. Section 236.110 requires that the test results of certain signaling apparatus be recorded and specifically identify the tests required under sections 236.102–109; sections 236.377–236.387; sections 236.576; 236.577; and section 236.586–589. Section 236.110 further provides that the test results must be recorded on pre-printed or computerized forms provided by the carrier and that the forms show the name of the railroad, place and date of the test conducted, equipment tested, test results, repairs, and the condition of the apparatus. This section also requires that the employee conducting the test must sign the form and that the record be retained at the office of the supervisory official having the proper

authority. Results of tests made in compliance with sections 236.587 must be retained for 92 days, and results of all other tests must be retained until the next record is filed, but in no case less than one year. Additionally, section 236.587 requires each railroad to make a departure test of cab signal, train stop, or train control devices on locomotives before that locomotive enters the equipped territory. This section further requires that whoever performs the test must certify in writing that the test was properly performed. The certification and test results must be posted in the locomotive cab with a copy of the certification and test results retained at the office of the supervisory official having the proper authority. However, if it is impractical to leave a copy of the certification and test results at the location of the test, the test results must be transmitted to either the dispatcher or one other designated official who must keep a written record of the test results and the name of the person performing the test. All records prepared under this section are required to be retained for 92 days. Finally, section 236.590 requires the carrier to clean and inspect the pneumatic apparatus of automatic train stop, train control, or cab signal devices on locomotives every 736 days, and to stencil, tag, or otherwise mark the pneumatic apparatus indicating the last cleaning date.

Annual Estimated Burden Hours: 480,988 hours.

Title: U.S. DOT Crossing Inventory Form.

OMB Control Number: 2130–0017.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads.

Abstract: Form FRA F 6180.71 is a voluntary form, and is used by States and railroads to periodically update certain site specific highway-rail crossing information which is then transmitted to FRA for input into the National Inventory File. This information has been collected on the U.S. DOT–AAR Crossing Inventory Form (previous designation of this form) since 1974 and maintained in the National Inventory File database since 1975. The primary purpose of the National Inventory File is to provide for the existence of a uniform database which can be merged with accidents data and used to analyze information for planning and implementation of crossing safety programs by public, private, and governmental agencies responsible for highway-rail crossing safety. Following the official establishment of the National Inventory in 1975, the Federal Railroad

Administration (FRA) assumed the principal responsibility as custodian for the maintenance and continued development of the U.S. DOT/AAR National Highway-Rail Crossing Inventory Program. The major goal of the Program is to provide Federal, State, and local governments, as well as the railroad industry, information for the improvement of safety at highway-rail crossings. Good management practices necessitate maintaining the database with current information. The data will continue to be useful only if maintained and updated as inventory changes occur. FRA previously cleared the reporting and recordkeeping burden for this form under Office of Management and Budget (OMB) Clearance Number 2130–0017. OMB approved the burden for this form through August 31, 2009. FRA is requesting a new three year approval from OMB for this information collection.

Form Number(s): Form FRA F 6180.71.

Annual Estimated Burden Hours: 3,655 hours.

ADDRESSES: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, Attention: FRA Desk Officer. Alternatively, comments may be sent via e-mail to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: oira_submissions@omb.eop.gov.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on May 7, 2009.

Kimberly Orben,

Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. E9–11143 Filed 5–12–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****[FTA Docket No. 2009–0027]****Notice of Request for Information Collection****AGENCY:** Federal Transit Administration (FTA), DOT.**ACTION:** Notice of Request for Comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve a new information collection:

49 U.S.C. Section 5339—Alternatives Analysis Program.

DATES: Comments must be submitted before July 13, 2009.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site:* <http://www.regulations.gov>. Follow the instructions for submitting comments on the U.S. Government electronic docket site. (**Note:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at <http://www.regulations.gov>. Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* Office of Program Management 202–366–7951.

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

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to <http://www.regulations.gov>. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit <http://www.regulations.gov>.

Docket: For access to the docket to read background documents and comments received, go to <http://www.regulations.gov> at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Juan Morrison, FTA Office of Program Management (202) 366–2053 or e-mail: Juan.Morrison@dot.gov.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. Section 5339—Alternatives Analysis Program (*OMB Number: 2132–NEW*).

Background: Under Section 3037 of the Safe, Accountable, Flexible, Efficient Transportation Act—A Legacy for Users (SAFETEA–LU), the Alternatives Analysis Program (49 U.S.C. 5339) provides grants to States, authorities of the States, metropolitan planning organizations, and local government authorities to develop studies as part of the transportation planning process. The purpose of the Alternatives Analysis Program is to assist in financing the evaluation of all reasonable modal and multimodal alternatives and general alignment options for identified transportation needs in a particular, broadly defined travel corridor. The transportation planning process of Alternatives Analysis includes an assessment of a wide range of public transportation or multimodal alternatives, which will address transportation problems within a corridor or subarea; provides ample information to enable the Secretary to make the findings of project justification

and local financial commitment; supports the selection of a locally preferred alternative; and enables the local Metropolitan Planning Organization to adopt the locally preferred alternative as part of the long-range transportation plan. FTA intends to evaluate program implementation by collecting information such as project milestones and financial status reports.

Respondents: State and local government and Metropolitan Planning Organizations.

Estimated Annual Burden on Respondents: 28 hours for each of the respondents.

Estimated Total Annual Burden: 840 hours.

Frequency: Annual.

Issued: May 7, 2009.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. E9–11141 Filed 5–12–09; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****[Docket No. FTA–2009–0026]****Notice of Request for Extension of a Currently Approved Information Collection****AGENCY:** Federal Transit Administration, DOT.**ACTION:** Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of the currently approved information collection: Tribal Transit Program.

DATES: Comments must be submitted before July 13, 2009.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site:* <http://www.regulations.gov>. Follow the instructions for submitting comments on the U.S. Government electronic docket site. (**Note:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at <http://www.regulations.gov>. Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–493–2251.

3. *Mail*: U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

4. *Hand Delivery*: U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, at <http://www.regulations.gov>. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit <http://www.regulations.gov>.

Docket: For access to the docket to read background documents and comments received, go to <http://www.regulations.gov> at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue S.E., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Lorna Wilson, Office of Program Management, (202) 366-0893, or e-mail: lorna.wilson@dot.gov.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Tribal Transit Program (OMB Number: 2132-0567).

Background: FTA's Tribal Transit Program provides financial assistance to federally recognized Indian tribes for

public transportation services on and around Indian reservations located in rural areas. Eligibility is based on the statutory provisions of 49 U.S.C. 5311—Nonurbanized Area Formula Program. The provisions of the American Recovery and Reinvestment Act of 2009, Title 49 U.S.C. 5311, 49 CFR Part 18—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (the Common Grant Rule), and prudent administration of federal grant funds dictate that grantor agencies review applications for federal assistance to assure eligibility and other criteria, as appropriate, and monitor approved projects to ensure timely expenditure of federal funds by grant recipients. Information collected under this program is structured to comply with federal mandates. The reporting requirements are submitted by recipients in two stages: The application stage and the project management stage.

The American Recovery and Reinvestment Act of 2009 (ARRA) established funding for the Tribal Transit Program. This program is a \$17,000,000 discretionary grant program to support capital investments for public transit services that serve Indian tribes and Alaska Native villages.

To meet the requirements of the ARRA, FTA requested an emergency approval from OMB for the Tribal Transit Program. OMB approved FTA's emergency request on March 17, 2009. FTA published a **Federal Register** notice on March 23, 2009, for Public Transportation on Indian Reservations Program; Tribal Transit Program Under the American Recovery and Reinvestment Act of 2009.

Respondents: State and local governments, tribal governments, businesses or other for-profit institutions, non-profit institutions and small business organizations.

Estimated Annual Burden on Respondents: Approximately 45 hours for each of the 71 respondents.

Estimated Total Annual Burden: 3,195 hours.

Frequency: Annual.

Issued: May 7, 2009.

Ann M. Linnertz,

Associate Administrator for Administration.
[FR Doc. E9-11142 Filed 5-12-09; 8:45 am]

BILLING CODE 4910-57-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 316X); STB Docket No. AB-866 (Sub-No. 2X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Mecklenberg County, VA, and Granville County, NC; North Carolina & Virginia Railroad Co., Inc., Virginia Southern Railroad Division—Discontinuance of Service Exemption—in Mecklenberg County, VA, and Granville County, NC

Norfolk Southern Railway Company (NSR) and North Carolina & Virginia Railroad Co., Inc., Virginia Southern Railroad Division (NCVA) (collectively, applicants), have jointly filed a verified notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 15.25 mile line of railroad between milepost D-37.9, south of Clarksville, VA, and milepost D-53.15, at O&H Junction, near Oxford, NC, in Mecklenberg County, VA, and Granville County, NC (the line).¹ The line traverses United States Postal Service Zip Codes 23927, 27507 and 27565.

Applicants have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial

¹ NCVA was authorized to lease the line and a connecting portion of a line between milepost D-0.0 and milepost D-37.9 (northern portion) from NSR. NSR has agreed to lease the northern portion to the Buckingham Branch Railroad Company (BBRR), and NCVA has assigned its common carrier obligation over that portion of the line north of Clarksville to BBRR. See *Buckingham Branch Railroad Company—Change in Operators Exemption—Rail Line in Nottoway, Lunenburg, Charlotte, and Mecklenberg Counties, VA*, STB Finance Docket No. 35226 (STB served May 7, 2009).

revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 12, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),² must be filed by May 26, 2009.³ Petitions to reopen must be filed by June 2, 2009, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: John M. Scheib, General Attorney, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510; and NCVA's representative: Louis E. Gitomer, Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: May 7, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. E9-11061 Filed 5-12-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a

proposed Avenue 416 Widening Project in the County of Tulare and County of Fresno, State of California. Those actions grant approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before November 9, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Kelly Hobbs, Senior Environmental Planner, California Department of Transportation (Caltrans), 2015 E. Shields Avenue #100, Fresno, CA 93726; weekdays 8 a.m. to 5 p.m. (Pacific Time); telephone (559) 243-8222; e-mail kelly_hobbs@dot.ca.gov.

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and the California Department of Transportation (Caltrans) assumed environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing approvals for the following highway project in the State of California. The County of Tulare along with Fresno County and the City of Dinuba, in cooperation with the California Department of Transportation (Caltrans), propose to improve approximately 12 miles of Mountain View Avenue/Avenue 416/El Monte Way by widening from a two-lane to a four-lane roadway and constructing a median and/or median lane. The limits are from Bethel Avenue in Fresno County east to Road 92 in the City of Dinuba in Tulare County. The replacement of the Kings River Bridge in Tulare County with a four-lane structure is also proposed. The project would improve traffic operations and improve regional transportation and circulation. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) for the project, approved on April 28, 2009, and in other documents in the FHWA administrative records. The EA/FONSI and other documents are available by contacting FHWA or Caltrans at the addresses provided above. The FHWA EA/FONSI can be viewed at public locations in the project area: Tulare County Resource Management Agency at 5961 South Mooney Boulevard, Visalia, CA 93277;

the City of Dinuba City Hall, 405 East El Monte Way, Dinuba, CA 93618; the Dinuba Branch Library, 150 S I St, Dinuba, CA 93618; the Windsor Christian Academy, 5018 Avenue 416, Reedley, CA 93654; or the Fresno Central Library, 2420 Mariposa St, Fresno, CA 93721.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; and Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401-7671(q)].

3. *Land:* Landscape and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251-1377 (Section 404, Section 401, Section 319); Wetlands Mitigation [23 U.S.C. 103(b)(6)(m) and 133(b)(11)]; Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601-4604; Flood Disaster Protection Act, 42 U.S.C. 4001-4128; and Safe Drinking Water Act [42 U.S.C. 300(f)-300(j)(6)].

5. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)]; and Migratory Bird Treaty Act [16 U.S.C. 703-712].

6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological and Historic Preservation Act [16 U.S.C. 469-469c]; Archaeological Resources Protection Act of 1979 [16 U.S.C. 470 *et seq.*]; and Native American Graves Protection and Repatriation Act [25 U.S.C. 3001-3013].

7. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; Farmland Protection Policy Act [7 U.S.C. 4201-4209]; American Indian Religious Freedom Act [42 U.S.C. 1996]; and The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601-9675]; Superfund Amendments and Reauthorization Act of 1986; and Resource Conservation and Recovery Act [42 U.S.C. 6901-6992(k)].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income

² Each OFA must be accompanied by the filing fee, which currently is set at \$1,500. See 49 CFR 1002.2(f)(25).

³ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

Populations; E.O. 11593 Protection and Enhancement of the Cultural Environment; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; and E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 23 U.S.C. 139(l)(1).

Issued on: May 7, 2009.

Karen Bobo,

Director, Local Agency Programs, Federal Highway Administration, Sacramento, California.

[FR Doc. E9-11133 Filed 5-12-09; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-26367]

Motor Carrier Safety Advisory Committee Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Motor Carrier Safety Advisory Committee meeting, amendment.

SUMMARY: FMCSA announces an amendment to its May 5, 2009, notice regarding the May meeting of the Motor Carrier Safety Advisory Committee (MCSAC). The public session scheduled for May 18, from 10 a.m.-11 a.m. will be combined with the public session scheduled on May 20 from 1 p.m. to 4 p.m.

DATES: The MCSAC will hold a public session on Wednesday, May 20, 2009, from 1 p.m. to 4 p.m. (EDT).

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey K. Miller, Chief, Strategic Planning and Program Evaluation Division, Office of Policy Plans and Regulation, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366-5730, mcsac@dot.gov.

Background

On May 5, 2009, FMCSA announced that its MCSAC will hold a public meeting via teleconference on May 18, 2009, from 10 a.m.-11 a.m. The notice

also announced that FMCSA's MCSAC will hold a public meeting on Wednesday, May 20, 2009, from 1 p.m.-4 p.m. at the U.S. Department of Transportation, Media Center, West Building, Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590. The public meeting scheduled for May 18 is being combined with the public session scheduled for May 20. The May 20 session will now be used to allow all interested parties to listen to the MCSAC members discuss all topics for which the committee will provide recommendations to FMCSA during its May meeting.

The Committee will allocate one hour for public comments on May 20, 2009, from 3 p.m. to 4 p.m. Individuals wishing to address the committee should send an e-mail to mcsac@dot.gov by May 13, 2009. The time available will be divided among those who have signed up to address the committee with no one being allotted more than 15 minutes. For a copy of the agenda, please send an e-mail to mcsac@dot.gov.

Should you wish to attend the meeting on May 20, 2009, please e-mail mcsac@dot.gov by May 15, 2009, to facilitate the pre-clearance security process and expedite entry into the building. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please e-mail mcsac@dot.gov by May 15, 2009.

Issued on: May 8, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9-11177 Filed 5-12-09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2009-0045]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel GYPSY VENTURE.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief

description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2009-0045 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 12, 2009.

ADDRESSES: Comments should refer to docket number MARAD-2009-0045. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21-203, Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel GYPSY VENTURE is:
Intended Use: "sport fishing, dinner tours."

Geographic Region: "Louisiana".

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the

name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: May 5, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,
Secretary, Maritime Administration.

[FR Doc. E9–11145 Filed 5–12–09; 8:45 am]
BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009 0047]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel TAMMY NORIE.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0047 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before June 12, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0047. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel TAMMY NORIE is:

Intended Use: “sail charter.”

Geographic Region: “Fox Islands, Penobscot Bay, Maine. Coastal tours.”

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: May 5, 2009.

By Order of the Maritime Administrator.

Leonard Sutter,
Secretary, Maritime Administration.
[FR Doc. E9–11146 Filed 5–12–09; 8:45 am]
BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on a currently

approved information collection that is due for extension approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning the Annual Report of U.S. Ownership of Foreign Securities, including Selected Money Market Instruments. The next such collection is a benchmark survey and is to be conducted as of December 31, 2009.

DATES: Written comments should be received on or before July 13, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422 MT, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. In view of possible delays in mail delivery, you may also wish to send a copy to Mr. Wolkow by e-mail (comments2TIC@do.treas.gov) or FAX (202–622–2009). Mr. Wolkow can also be reached by telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury International Capital (TIC) Forms Web page for “Forms SHL/SHLA & SHC/SHCA”, at: <http://www.treas.gov/tic/forms-sh.shtml>. Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury Department Forms SHC and SHCA, U.S. Ownership of Foreign Securities, including Selected Money Market Instruments.

OMB Number: 1505–0146.

Abstract: These forms are used to conduct annual surveys of holdings by U.S. residents of foreign securities for portfolio investment purposes. These data are used by the U.S. Government in the formulation of international financial and monetary policies, and for the computation of the U.S. balance of payments accounts and of the U.S. international investment position. These data are also used to provide information to the public and to meet international reporting commitments. This survey is part of an internationally coordinated effort under the auspices of the International Monetary Fund to improve data on securities worldwide. Most of the major industrial and financial countries conduct similar surveys.

A benchmark survey (Form SHC) of all significant U.S.-resident custodians and end-investors is conducted every five years. In non-benchmark years, the

annual survey (Form SHCA) requires reports generally from only the very largest U.S.-resident custodians and end-investors. The data requested in Form SHCA will generally be the same as in the preceding benchmark report. The determination of who must report in the annual surveys (Form SHCA) is based primarily on the data submitted during the preceding benchmark survey. The data collected under the annual surveys (SHCA) will be used in conjunction with the results of the preceding benchmark survey to make economy-wide estimates for the non-benchmark years.

Current Actions: None. No changes in the forms or in the instructions will be made from the previous survey that was conducted as of December 31, 2008. [Note that some clarifications may be made in the instructions as a result of discussions with respondents.]

Type of Review: Extension of a currently approved data collection.

Affected Public: Business/Financial Institutions.

Forms: TDF SHC, Schedules 1, 2 and 3 (1505–0146); TDF SHCA, Schedules 1, 2 and 3 (1505–0146).

Estimated Number of Respondents: An annual average (over five years) of 395, but this varies widely from about 1,200 in benchmark years (once every five years) to about 195 in other years (four out of every five years).

Estimated Average Time per Respondent: An annual average (over five years) of about 142 hours, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey (using Form SHC), *i.e.*, once every five years, it is estimated that exempt respondents will require an average of 16 hours; custodians of securities providing security-by-security information will require an average of 360 hours, but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 120 hours; and end-investors and custodians employing U.S. custodians will require an average of 40 hours. (b) In a non-benchmark year (using Form SHCA), *i.e.*, four years out of every five years, custodians of securities providing security-by-security information will require an average of 700 hours (because only the largest U.S.-resident custodians will report), but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 145 hours; and reporters entrusting their foreign securities to U.S. custodians will require an average of 48 hours.

The exemption level, which applies only in benchmark years, for custodians

is the holding of less than \$100 million in foreign securities and for end-investors the owning of less than \$100 million in foreign securities with a single custodian.

Estimated Total Annual Burden Hours: Annual average (over five years) of 56,080 hours.

Frequency of Response: Annual.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the Survey is necessary for the proper performance of the functions of the Office of International Affairs within the Department of the Treasury, including whether the information collected will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data requested; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide the information requested.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. E9–11140 Filed 5–12–09; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket ID: OTS–2009–0008]

Open Meeting of the OTS Minority Depository Institutions Advisory Committee

AGENCY: Department of the Treasury, Office of Thrift Supervision.

ACTION: Notice of meeting.

SUMMARY: The OTS Minority Depository Institutions Advisory Committee (MDIAC) will convene a meeting on Thursday, May 28, 2009, via a teleconference beginning at 2 p.m. Eastern Time. The telephone meeting will be open to the public. Members of the public interested in listening to the meeting and members of the public who require auxiliary aide should e-mail the OTS at Commaffairs@ots.treas.gov to obtain the information on how to participate on the call.

DATES: The telephone meeting will be held on Thursday, May 28, 2009, at 2 p.m. Eastern Time.

Submission of Written Comments: The public is invited to submit written statements to the OTS Minority Depository Institutions Advisory Committee by any one of the following methods:

- **E-mail address:**
Commaffairs@ots.treas.gov; or
- **Mail:** To Cassandra McConnell, Designated Federal Official, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552 in triplicate.

The agency must receive statements no later than Thursday, May 21, 2009.

FOR FURTHER INFORMATION CONTACT: Cassandra McConnell, Designated Federal Official, (202) 906–5750, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: By this notice, the Office of Thrift Supervision is announcing that the OTS Minority Depository Institutions Advisory Committee will convene a meeting on Thursday, May 28, 2009, via a teleconference beginning at 2 p.m. Eastern Time. The meeting will be open to the public. Anyone planning to participate in the meeting should contact the Office of Community Affairs at Commaffairs@ots.treas.gov by 5 p.m. Eastern Time on Thursday, May 21, 2009. The purpose of this telephone meeting is to discuss the committee objectives to advise OTS on ways to meet the goals established by section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101–73, Title III, 103 Stat. 353, 12 U.S.C.A. section 1463 note. The goals of section 308 are to preserve the present number of minority institutions, preserve the minority character of minority-owned institutions in cases involving mergers or acquisitions, provide technical assistance, and encourage the creation of new minority institutions.

Dated: May 8, 2009.

By the Office of Thrift Supervision.

Cassandra E. McConnell,
Designated Federal Official, OTS Minority Depository Institutions Advisory Committee.
[FR Doc. E9–11197 Filed 5–12–09; 8:45 am]

BILLING CODE 6720–01–P

**DEPARTMENT OF VETERANS
AFFAIRS****[OMB Control No. 2900–New (21–0845)]****Agency Information Collection:
Emergency Submission for OMB
(FVEC) Review; Comment Request****AGENCY:** Veterans Benefits
Administration, Department of Veterans
Affairs.**ACTION:** Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the United States Department of Veterans Affairs (VA), has submitted to the Office of Management and Budget (OMB) the following emergency proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3507(j)(1)). The reason for the emergency clearance is to allow VA to share claims information with the family members or designee of severely injured service members who are unable to communicate with VA due to their injuries. OMB has been requested to act

on this emergency clearance request by June 5, 2009.

DATES: Comments must be submitted on or before May 20, 2009.

ADDRESSES: Submit written comments on the collection of information through <http://www.Regulations.gov> or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to “OMB Control No. 2900–New (21–0845)” in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail denise.mclamb@va.gov. Please refer to “OMB Control No. 2900–New (21–0845).”

SUPPLEMENTARY INFORMATION:

Title: Statement in Support of Claim (Filipino Veterans Equity Compensation Fund), VA Form 21–4138(CF).

OMB Control Number: 2900–New (21–0845).

Type of Review: New collection.

Abstract: VA Form 21–0845 is completed by severely injured service members or beneficiary who are unable to communicate with VA due to their injuries, to authorize release of certain claims information to an agent or person(s) whom they designate. The form will aid family member(s) in making well-informed decisions regarding a seriously ill or injured claimant or beneficiary and also allow the designee to receive updated information on certain decisions made regarding claims and payments.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,667 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20,000.

Dated: May 7, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–11104 Filed 5–12–09; 8:45 am]

BILLING CODE 9320–01–P

Reader Aids

Federal Register

Vol. 74, No. 91

Wednesday, May 13, 2009

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The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at <http://www.regulations.gov>.**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

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S. 39/P.L. 111-18

To repeal section 10(f) of Public Law 93-531, commonly known as the "Bennett Freeze". (May 8, 2009; 123 Stat. 1611)

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