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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 300

RIN 3206–AL18

Time-in-Grade Eliminated, Delay of Effective Date

AGENCY: Office of Personnel Management.

ACTION: Final rule; delay of the effective date.

SUMMARY: The Office of Personnel Management (OPM) is extending the effective date of the final rule, titled Time-in-Grade Elimination, published in the **Federal Register** on November 7, 2008, for an additional 90 days, from May 18, 2009 to August 16, 2009. OPM is extending the effective date to address comments received from the March 9, 2009, **Federal Register** rule, and the May 11, 2009, **Federal Register** proposed rule.

DATES: The effective date for the final rule published in the **Federal Register** on November 7, 2008 (73 FR 66157), that was delayed until May 18, 2009 (March, 9, 2009, 74 FR 9951), is delayed until August 16, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Warren by telephone (202) 606–0960; by FAX (202) 606–2329; by TTY (202) 418–3134; or by e-mail *janice.warren@opm.gov.*

SUPPLEMENTARY INFORMATION: On May 11, 2009, the U.S. Office of Personnel Management (OPM) published in the **Federal Register** (74 FR 21771) a proposed rule proposing to extend the final rule's effective date to August 16, 2009. The purpose of the proposed extension is to delay the effective date so that OPM may thoroughly review and consider the comments received from the March 9, 2009, **Federal Register** rule (74 FR 9951) to consider issues of law and policy raised by the November 7, 2008, final rule. The public comment period for the proposal to extend and/or revoking the final regulation ended on May 12, 2009. A discussion of the comments follows.

OPM received comments from four agencies, one employee organization, and six individuals on the proposal to extend the effective date. All four agencies and the employee organization supported OPM's proposal to extend the effective date of the final regulation. Six individuals opposed the proposed delay of the effective date. Two individuals believe the delay would cause additional confusion for agency personnel staff. Four individuals commented the delay in effective date would unfairly penalize high-performing employees who otherwise might be eligible for promotions despite not meeting the time-in-grade requirement.

OPM has carefully considered these comments and has decided to delay the effective date of the final regulation until August 16, 2009. We note the current administration has not had adequate time to assess the impact of TIG removal. Further, we believe a delay in the effective date will provide us the opportunity to consider additional comments from the May 11, 2009 proposed rule to consider issues of law and policy raised by OPM's November 7, 2008 final rule. We also do not wish agencies to undertake the significant effort and expense that will likely result to achieve the changes that would be required if the rule were to go into effect on May 18, 2009, which might be unnecessary if OPM decides to modify the rule.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–11589 Filed 5–14–09; 11:15 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23742; Directorate Identifier 2005–NE–53–AD; Amendment 39–15896; AD 2009–10–01]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney (PW) JT9D–7R4 Series Turbofan Engines; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting airworthiness directive (AD) 2009–10–01, which was previously published in the **Federal Register**. That AD applies to PW JT9D–7R4 series turbofan engines. In the **Federal Register**, the AD number in the CFR citation of the headings section is incorrect. This document corrects that AD number. In all other respects, the original document remains the same.

DATES: Effective May 18, 2009.

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: On May 5, 2009 (74 FR 20580), we published a final rule AD, FR Doc, E9–10145, in the **Federal Register**. That AD applies to PW JT9D–7R4 series turbofan engines. We need to make the following correction:

§ 39.13 [Corrected]

■ On page 20580, in the second column, in the Headings Section, in the CFR citation, in the third line, ''AD 2009–10–06'' is corrected to read ''AD 2009–10–01''.

Issued in Burlington, Massachusetts, on May 7, 2009.

Peter A. White,

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

[FR Doc. E9–11477 Filed 5–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

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

RIN 2120–AA64

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

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

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting typographical errors in an existing airworthiness directive (AD) that was published previously in the **Federal Register**. The error resulted in two incorrect paragraph references. This AD applies to certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. This AD requires repetitive detailed inspections of the aft pressure bulkhead for indications of ''oil cans'' and previous oil can repairs at reduced compliance times, and corrective actions if necessary.

DATES: Effective April 2, 2009.

ADDRESSES: 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: On January 29, 2009, the FAA issued AD 2009–04–06, amendment 39–15812 (74 FR 8719, February 26, 2009), for certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. This AD requires repetitive detailed inspections of the aft pressure bulkhead for indications of ''oil cans'' and previous oil can repairs at reduced compliance times, and corrective actions if necessary.

As published, there are two locations in the AD that reference an incorrect paragraph identifier.

No other part of the regulatory information has been changed; therefore, the final rule is not republished in the **Federal Register**.

The effective date of this AD remains April 2, 2009.

§ 39.13 [Corrected]

In the **Federal Register** of February 26, 2009, on page 8721, in the first column, paragraph (i) of AD 2009–04–06 is corrected to read as follows:

* * * * *

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

* * * * *

In the **Federal Register** of February 26, 2009, on page 8721, in the second column, paragraph (j)(1) of AD 2009–04–06 is corrected to read as follows:

* * * * *

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

* * * * *

Issued in Renton, Washington, on May 6, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–11280 Filed 5–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 101

[USCBP–2005–0035; CBP Dec. 09–16]

Extension of Port Limits of St. Louis, MO

AGENCY: Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This document amends the Department of Homeland Security (DHS) regulations pertaining to Customs and Border Protection's (CBP's) field organization by extending the geographical limits of the port of St. Louis, Missouri to include the entire expanded Lambert-St. Louis International Airport. The change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: *Effective Date:* June 17, 2009.

FOR FURTHER INFORMATION CONTACT: Wendy M. Cooper, Office of Field Operations, 202–344–2057.

SUPPLEMENTARY INFORMATION:

I. Background

In a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** (71 FR 47156) on August 16, 2006, CBP proposed to amend the list of CBP ports of entry at 19 CFR 101.3(b)(1) to extend the geographical limits of the St. Louis, Missouri port of entry.

The current port limits of the St. Louis, Missouri, port of entry are described in Treasury Decision (T.D.) 69–224, effective September 27, 1969. In the NPRM, CBP explained that the Lambert-St. Louis International Airport was located within the boundaries of these port limits. However, at the time the NPRM was published, the airport had initiated an expansion project, which, when completed, would place part of the airport outside of the port's current boundaries. Accordingly, so that the entire airport would be within the port's boundaries and to make the boundaries more easily identifiable to the public, CBP proposed to extend the port limits of the port of St. Louis, Missouri in such a way that would align the port boundaries with the Federal Interstate Highways that encircle the St. Louis metropolitan area. CBP determined that this proposed change in the boundaries of the port of St. Louis, Missouri, would not result in a change in the service that is provided to the public by the port, nor would it require a change in the staffing or workload at the port.

II. Analysis of Comments and Conclusion

CBP did not receive any comments in response to the NPRM. With the expansion of the airport being completed as scheduled, CBP is extending the geographical limits of the port of St. Louis, Missouri, as proposed in the NPRM. CBP believes that the inclusion of the entire airport within the port limits and alignment of the port boundaries with the Federal Interstate

highways that encircle the St. Louis area will enable CBP to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. The port of entry description of St. Louis, Missouri, will be revised as proposed in the NPRM.

III. Port Description of St. Louis, Missouri

The port limits of St. Louis, Missouri, are as follows: Beginning at the point where Federal Interstate Highway 270 crosses the Mississippi River; thence west, southwest, south and southeast, along Federal Interstate Highway 270 to the point where it becomes Federal Interstate Highway 255; thence southeast on Federal Interstate Highway 255 across the Mississippi River; thence north and east to the point where Federal Interstate Highway 255 intersects with Federal Interstate Highway 270; thence west along Federal Interstate Highway 270 to the Mississippi River, the point of beginning.

IV. Authority

This change is made under the authority of 5 U.S.C. 301; 19 U.S.C. 2, 66, and 1624; and 6 U.S.C. 203.

V. Statutory and Regulatory Reviews

A. Executive Order 12866: Regulatory Planning and Review

This rule is not considered to be an economically significant regulatory action under Executive Order 12866, because it will not result in the expenditure of over $100 million in any one year. The change is intended to expand the geographical boundaries of the Port of St. Louis, Missouri, and make it more easily identifiable to the public. There are no new costs to the public associated with this rule. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires Federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act), a small not-for-profit organization, or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule does not directly regulate small entities. The change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. To the extent that all entities are able to more efficiently or conveniently access the facilities and resources within the expanded geographical area of the new port limits, this rule should confer benefits to CBP, carriers, importers, and the general public.

Because this rule does not directly regulate small entities, CBP certifies that this rule does not have a significant economic impact on a substantial number of small entities.

VI. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a), because the port extension is not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this final rule may be signed by the Secretary of Homeland Security (or his or her delegate).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Exports, Imports, Organization and functions (Government agencies).

Amendments to CBP Regulations

■ For the reasons set forth above, part 101, CBP Regulations (19 CFR part 101) are amended as set forth below.

PART 101—GENERAL PROVISIONS

■ 1. The general authority citation for part 101 and the specific authority citation for section 101.3 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

* * * * *

■ 2. In the list of ports in section 101.3(b)(1), under the State of Missouri, the ''Limits of port'' column adjacent to ''St. Louis'' in the ''Ports of entry'' column is amended by removing the language ''Including territory described in T.D.s 67–57 and 69–224'' and adding in its place ''CBP Dec. 09–16.''

Dated: May 13, 2009.

Janet Napolitano,

Secretary.

[FR Doc. E9–11538 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 596

Terrorism List Governments Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury (''OFAC'') is amending the Terrorism List Governments Sanctions Regulations so that the schedule to which a prohibition section refers lists those countries that are currently designated as supporting international terrorism, instead of the countries that were designated as of the effective date of these regulations. This amendment also removes Iraq, Libya, and North Korea from the schedule, because these countries are no longer designated as state sponsors of terrorism.

DATES: *Effective Date:* May 18, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

Section 321 of the Antiterrorism and Effective Death Penalty Act of 1996, 18 U.S.C. 2332d (the ''Act''), makes it a criminal offense for United States persons, except as provided in regulations issued by the Secretary of the Treasury in consultation with the Secretary of State, to engage in financial transactions with the governments of countries designated under section 6(j) of the Export Administration Act of 1979, 50 U.S.C. App. 2405(j) (the ''EAA''), as supporting international terrorism. To implement section 321 of the Act, OFAC promulgated the Terrorism List Governments Sanctions Regulations, 31 CFR part 596 (the

''Regulations''), effective August 22, 1996. 61 FR 43462 (Aug. 23, 1996).

Section 596.201 of the Regulations provides that, except as authorized by regulations, orders, directives, licenses, or otherwise, no United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the EAA as a country supporting international terrorism, shall engage in a financial transaction with the government of such country. A schedule following section 596.201 listed those countries that were designated under section 6(j) as of the effective date of the Regulations (*i.e.*, as of August 22, 1996). Since that date, the Secretary of State has issued Public Notices rescinding the designations of Iraq [69 FR 61702 (Oct. 20, 2004)], Libya [71 FR 39696 (July 13, 2006)], and North Korea [73 FR 63540 (Oct. 24, 2008)]. Accordingly, OFAC is amending section 596.201 of the Regulations so that the schedule that follows in new paragraph (b) of this section lists countries that are designated under section 6(j) as supporting international terrorism as of May 18, 2009. The schedule itself is being updated by the removal of Iraq, Libya, and North Korea, which are no longer so designated.

Public Participation

Because the amendment of the Regulations involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 596

Administrative practice and procedure, Banking and finance, Cuba, Fines and penalties, Iran, Reporting and recordkeeping requirements, Syria, Sudan, Terrorism, Transfer of assets.

■ For the reasons set forth in the preamble, the Office of Foreign Assets Control amends 31 CFR part 596 as follows:

PART 596—TERRORISM LIST GOVERNMENTS SANCTIONS REGULATIONS

■ 1. The authority citation for part 596 continues to read as follows:

Authority: 18 U.S.C. 2332d; 31 U.S.C. 321(b).

Subpart B—Prohibitions

■ 2. Revise § 596.201 to read as follows:

§ 596.201 Prohibited financial transactions.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, no United States person, on or after the effective date, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, shall engage in a financial transaction with the government of that country.

(b) Countries designated under section 6(j) of the Export Administration Act as of May 18, 2009 are listed in the following schedule.

Schedule

Cuba.
Iran.
Sudan.
Syria.

Dated: May 7, 2009.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. E9–11294 Filed 5–15–09; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2009–0328]

Safety Zone; Fourth of July Fireworks, City of Sausalito, Sausalito, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Fourth of July Fireworks, City of Sausalito, safety zone from 9 a.m. through 9:30 p.m. on July 4, 2009, in position 37°51′31″ N, 122°28′28″ W. This action is necessary to control vessel traffic and to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 9 a.m. through 9:30 p.m. on July 4, 2009.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Lieutenant Junior Grade Simone Mausz, Sector San Francisco Waterways Safety Division, U.S. Coast Guard; telephone 415–399–7442, e-mail *simone.mausz@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the safety zone for the annual Fourth of July Fireworks, City of Sausalito, safety zone in 33 CFR 165.1191 on July 4, 2009, from 9 a.m. through 9:30 p.m. During the fireworks display, scheduled to start at approximately 9:15 p.m., the fireworks barge will be located approximately 1,000 feet off-shore from Sausalito waterfront, North of Spinnaker Restaurant in the Richardson Bay in position 37°51′31″ N, 122°28′28″ W.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order of direction. The PATCOM is empowered to forbid and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of this enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 1, 2009.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port, Sector San Francisco.

[FR Doc. E9–11558 Filed 5–15–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2009–0327]

Safety Zone; Vallejo Fourth of July Fireworks, Vallejo, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Vallejo Fourth of July Fireworks Display safety zone for the city of Vallejo, from 8 p.m. through 10 p.m. on July 4, 2009, in the Mare Island Straight in position 38°5′46″ N, 122°15′54″ W (NAD83). This action is necessary to control vessel traffic and to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 8 p.m. through 10 p.m. on July 4, 2009.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail Lieutenant Junior Grade Simone Mausz, Sector San Francisco Waterways Safety Division, U.S. Coast Guard; telephone 415–399–7442, e-mail *simone.mausz@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual Vallejo Fourth of July Fireworks in 33 CFR 165.1191 on July 4, 2009, from 8 p.m. through 10 p.m. The fireworks launch site is on the shore line of Mare Island in Vallejo, CA and will be launched from position 38°5′46″ N, 122°15′54″ W (NAD83).

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order of direction. The PATCOM is empowered to forbid and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of this enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 1, 2009.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port, Sector San Francisco.

[FR Doc. E9–11561 Filed 5–15–09; 8:45 am]

BILLING CODE 4910–15–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3001

[Docket No. RM2009–4; Order No. 214]

Updates to Rules of Practice

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is removing obsolete rules of practice from the Code of Federal Regulations. The removed rules have been overtaken by rulemakings implementing a new postal law.

DATES: Effective May 18, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–7689–6824 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends part 3001 of the Postal Regulatory Commission's rules of practice and procedure, 39 CFR part 3001, by removing subparts B, C, F, G, I, J, K, and L. As explained below, these rules have been rendered obsolete by the passage of the Postal Accountability and Enhancement Act (PAEA), Public Law No. 109–435, 120 Stat. 3218 (2006).

The PAEA transformed the Postal Rate Commission into the Postal Regulatory Commission (Commission); repealed several key sections of title 39 of the United States Code; and added a number of new statutory provisions to title 39. The result was a major change in the Commission's regulatory responsibilities and authorities. In response to the changes made by the PAEA, the Commission, on October 29, 2007, established a new system of ratemaking which was markedly different from the prior regulatory regime. Docket No. RM2007–1, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2009 (Order No. 43).

Because of changes made by the PAEA and Order No. 43, subparts B, C, F, G, I, J, K, and L of part 3001 of the Commission's rules of practice are obsolete and are being removed to avoid uncertainty and confusion.

II. Discussion

A. 39 CFR Part 3001, Subpart B—Rules Applicable to Requests for Changes in Rates or Fees

Part 3001, subpart B, was adopted in 1971 and covered requests by the Postal Service for the issuance of recommended decisions by the Postal Rate Commission on proposed changes in rates and fees. 36 FR 396 (January 12, 1971). Subpart B implemented section 3622 of the Postal Reorganization Act (PRA). Section 201(a) of the PAEA struck PRA §§ 3621 and 3622 from title 39 of the United States Code and replaced those two sections with the following new sections: §§ 3621 and 3622 (applicable to market dominant products) and §§ 3631 through 3634 (applicable to competitive products).

To implement these statutory changes, the Commission, in Order No. 43, promulgated new regulations as parts 3010 and 3015. Those latter parts now govern rate changes for market dominant and competitive products, respectively.

The repeal of 39 U.S.C. 3621 and 3622; the addition of new §§ 3621, 3622, and 3631 through 3634 to title 39; and the adoption of parts 3010 and 3015 to the Commission's rules of practice and procedure have, together, rendered subpart B of part 3001 obsolete. Accordingly, the Commission is removing subpart B.

B. 39 CFR Part 3001 Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule; Subpart I—Rules for Expedited Review to Allow Market Tests of Proposed Mail Classification Changes; Subpart J—Rules for Expedited Review of Requests for Provisional Service Changes of Limited Duration; and Subpart K—Rules for Use of Multi-Year Test Periods

Subparts C, I, J, and K of part 3001 of the Commission's rules of practice and procedure cover requests for establishing or changing the Mail Classification Schedule (MCS); requests for expedited review of market tests of proposed mail classification changes; requests for expedited review of proposed provisional service changes of limited duration that will supplement, but not alter, existing mail classifications and rates; and requests for multi-year test periods for proposed services. All four of these subparts implemented PRA § 3623, which dealt with the establishment and modification of the MCS. Subpart C was originally adopted in 1971. 36 FR 396 (January 12, 1971). Subpart C was amended, and subparts I, J, and K were adopted by Order No. 1110 issued by the Postal Rate Commission on May 7, 1996. 61 FR 24447 (May 15, 1996).[1]

Section 201(b) of the PAEA repealed PRA § 3623. On October 29, 2007, the Commission established a new MCS that categorized products as either market dominant or competitive. The Commission viewed the new MCS as a '' 'vehicle for presenting the product lists with necessary descriptive content.' '' Order No. 43, at 101, *citing* Docket No. RM2007–1, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, para. 4003 (Order No. 26). The authority to establish a new MCS was derived from the Commission's power under 39 U.S.C. 3642 to consider modifications to the market dominant and competitive product lists. *See* Order No. 26, para. 4001. Regulations governing the market dominant and competitive product lists are contained in part 3020 of the Commission's rules.

The repeal of 39 U.S.C. 3623; the enactment by the PAEA of 39 U.S.C. 3642; and the adoption of the new MCS by Order No. 43 have rendered subparts C, I, J, and K of part 3001 of the rules of practice and procedure obsolete. Accordingly, the Commission is removing those subparts.

C. Subpart F—Rules Applicable to the Filing of Testimony by Intervenors

Subpart F of part 3001 was originally adopted in 1973 and provides rules for the filing by intervenors of relevant and material evidence in rate and classification proceedings. 38 FR 7536 (March 22, 1973).

The enactment of the PAEA and the adoption of regulations governing rate and classification changes in parts 3010, 3015, and 3020 render subpart F of part 3001 obsolete. Unless otherwise ordered by the Commission or a Presiding Officer, evidence can be filed in a Commission proceeding pursuant to rule 31 in subpart A to part 3001.

D. Subpart G—Rules Applicable to the Filing of Reports by the U.S. Postal Service

PRC Order No. 203, Docket No. RM2008–4, April 16, 2009, adopted new periodic reporting rules and placed those rules in a new part 3050. That same order removed rules 3001.102 and 3001.103 from subpart G of part 3001. Through inadvertence, rule 3001.101, the sole remaining rule in subpart G, was left unaffected. Since rule 3001.101 serves no remaining purpose, subpart G is being removed.

E. Subpart L—Rules Applicable to Negotiated Service Agreements

Subpart L of part 3001 was adopted by the Postal Rate Commission during 2004 and provided rules for negotiated service agreements. 69 FR 7574 (February 18, 2004). Subpart L implemented PRA §§ 3622 and 3623.

In addition to repealing §§ 3622 and 3623, the PAEA enacted a new § 3622 to title 39. Section 3622(c)(10) provides the current basis for market dominant negotiated service agreements. New part 3010 adopted by Order No. 43 includes a new subpart D containing rules for rate adjustments for market dominant negotiated service agreements.

The repeal of 39 U.S.C. §§ 3622 and 3623; the enactment by the PAEA of a new § 3622 to title 39; and the adoption of the new subpart D to part 3001 have rendered subpart L of part 3001 obsolete. Accordingly, the Commission is removing subpart L.

III. Effective Date

Notice and comment are not required under the Administrative Procedure Act when a rulemaking involves ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice[.]'' 5 U.S.C. 553(b)(A). The elimination of subparts B, C, F, G, I, J, K, and L of part 3001 of the Commission's rules of practice and procedure therefore does not require notice and the opportunity for public comment.

Generally, a rule becomes effective not less than 30 days after publication in the **Federal Register.** A rule may become effective sooner if it is an interpretative rule, a statement of policy, or if the agency finds good cause to make it effective sooner. 5 U.S.C. 553(d). Since the statutory bases for the rules of practice being eliminated have been repealed and since new rules reflecting the current statutory scheme have been adopted, the Commission finds that good cause exists to make the rule promulgated by this order effective upon its publication in the **Federal Register**.

IV. Conclusion

In consideration of the foregoing, the Commission removes subparts B, C, F, G, I, J, K, and L of part 3001 of its rules of practice and procedure.

V. Ordering Paragraphs

It is Ordered:

1. Subpart 3001, subparts B, C, F, G, I, J, K, and L are hereby removed from the Commission's rules of practice and procedure.

2. Removal of the subparts referred to in paragraph 1 is effective upon publication of this order in the **Federal Register.**

3. The Secretary shall arrange for publication of this order in the **Federal Register.**

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure; Postal Service.

By the Commission.

Steven W. Williams,

Secretary.

■ For the reasons stated in the preamble, under the authority at 39 U.S.C. 503, the Postal Regulatory Commission amends 39 CFR chapter III as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 3001 is revised to read as follows:

Authority: 39 U.S.C. 404(d); 503; 3661.

Subparts B–C [Removed and reserved]

■ 2. Remove and reserve subparts B and C.

[1] These subparts were initially subject to a sunset provision and expired on May 15, 2001. On September 24, 2001, the Postal Rate Commission reissued each of the three subparts for an additional 5 years. Docket No. RM2001–3, Notice and Order Adopting Final Rule, September 24, 2001; 66 FR 54436 (October 29, 2001). On November 8, 2006, the Postal Rate Commission again reissued these three subparts for an additional 5 years. *See* Docket No. RM2006–1, Order Adopting Amendments to the Rules of Practice and Procedure, November 8, 2006; 71 FR 66675 (November 16, 2006).

Subparts F–G [Removed and reserved]

■ 3. Remove and reserve subparts F and G.

Subparts I–L [Removed and reserved]

■ 4. Remove and reserve subparts I through L.

[FR Doc. E9–11533 Filed 5–15–09; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8075]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

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

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

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

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

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

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region IV				
Georgia: Good Hope, City of, Walton County.	130411	April 12, 1976, Emerg; June 17, 1986, Reg; May 18, 2009, Susp.	May 18, 2009 ...	May 18, 2009
Loganville, City of, Walton County	130326	March 22, 1979, Emerg; July 16, 1982, Reg; May 18, 2009, Susp.	*.....do	Do.
Monroe, City of, Walton County	130227	March 26, 1975, Emerg; February 16, 1990, Reg; May 18, 2009, Susp.	.....do	Do.
North Carolina: Jonesville, Town of, Yadkin County.	370260	June 26, 1975, Emerg; July 1, 1987, Reg; May 18, 2009, Susp.	.....do	Do.
Yadkin County, Unincorporated Areas	370400	NA, Emerg; June 22, 2005, Reg; May 18, 2009, Susp.	.....do	Do.
Tennessee: Benton, City of, Polk County	470148	May 27, 1975, Emerg; July 3, 1986, Reg; May 18, 2009, Susp.	.....do	Do.
Copperhill, City of, Polk County	470269	May 1, 1975, Emerg; August 19, 1986, Reg; May 18, 2009, Susp.	.....do	Do.
Gallatin, City of, Sumner County	470185	May 27, 1975, Emerg; August 3, 1981, Reg; May 18, 2009, Susp.	.....do	Do.
Gatlinburg, City of, Sevier County	475426	October 30, 1970, Emerg; October 30, 1970, Reg; May 18, 2009, Susp.	.....do	Do.
Hendersonville, City of, Sumner County	470186	May 28, 1974, Emerg; November 4, 1981, Reg; May 18, 2009, Susp.	.....do	Do.
Lebanon, City of, Wilson County	470208	June 23, 1975, Emerg; January 6, 1983, Reg; May 18, 2009, Susp.	.....do	Do.
Livingston, City of, Overton County	470143	February 5, 1975, Emerg; June 3, 1986, Reg; May 18, 2009, Susp.	.....do	Do.
Mount Juliet, City of, Wilson County	470290	July 8, 1976, Emerg; May 17, 1982, Reg; May 18, 2009, Susp.	.....do	Do.
Pigeon Forge, City of, Sevier County	475442	November 13, 1971, Emerg; September 1, 1972, Reg; May 18, 2009, Susp.	.....do	Do.
Pittman Center, City of, Sevier County	470378	August 24, 1993, Emerg; March 1, 1995, Reg; May 18, 2009, Susp.	.....do	Do.
Polk County, Unincorporated Areas	470261	April 9, 1993, Emerg; June 16, 1995, Reg; May 18, 2009, Susp.	.....do	Do.
Sevierville, City of, Sevier County	475444	October 23, 1970, Emerg; March 27, 1971, Reg; May 18, 2009, Susp.	.....do	Do.
Sumner County, Unincorporated Areas	470349	August 5, 1975, Emerg; June 19, 1985, Reg; May 18, 2009, Susp.	.....do	Do.
Wilson County, Unincorporated Areas	470207	August 27, 1975, Emerg; June 15, 1984, Reg; May 18, 2009, Susp.	.....do	Do.
Region V				
Wisconsin: Albany, Village of, Green County	550158	March 18, 1975, Emerg; July 18, 1983, Reg; May 18, 2009, Susp.	.....do	Do.
Brodhead, City of, Green County	550160	April 30, 1975, Emerg; September 29, 1989, Reg; May 18, 2009, Susp.	.....do	Do.
Browntown, City of, Green County	550161	August 16, 1978, Emerg; October 16, 1984, Reg; May 18, 2009, Susp.	.....do	Do.
Green County, Unincorporated Areas	550157	November 1, 1974, Emerg; September 15, 1983, Reg; May 18, 2009, Susp.	.....do	Do.
Monroe, City of, Green County	550162	May 1, 1975, Emerg; December 1, 1982, Reg; May 18, 2009, Susp.	.....do	Do.
Monticello, Village of, Green County	550163	May 15, 1975, Emerg; July 18, 1983, Reg; May 18, 2009, Susp.	.....do	Do.
New Glarus, Village of, Green County	550164	May 2, 1975, Emerg; August 1, 1983, Reg; May 18, 2009, Susp.	.....do	Do.
Region VI				
Oklahoma: Bristow, City of, Creek County ...	400051	July 9, 1980, Emerg; May 4, 1982, Reg; May 18, 2009, Susp.	.....do	Do.
Drumright, City of, Creek, Payne County	400052	June 12, 1975, Emerg; July 2, 1980, Reg; May 18, 2009, Susp.	.....do	Do.
Kiefer, Town of, Creek County	400393	July 9, 1975, Emerg; April 15, 1982, Reg; May 18, 2009, Susp.	.....do	Do.
Mannford, Town of, Creek County	400399	March 20, 2003, Emerg; NA, Reg; May 18, 2009, Susp.	.....do	Do.
Sapulpa, City of, Creek County	400053	August 4, 1972, Emerg; December 1, 1977, Reg; May 18, 2009, Susp.	.....do	Do.
Stroud, City of, Creek, Lincoln County	400417	NA, Emerg; March 6, 2000, Reg; May 18, 2009, Susp.	.....do	Do.
Region VII				
Missouri: Eldon, Town of, Miller County	290227	January 17, 1975, Emerg; December 12, 1978, Reg; May 18, 2009, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Jonesburg, City of, Montgomery County	290310	December 31, 2007, Emerg; NA, Reg; May 18, 2009, Susp.	.....do	Do.
Lake Ozark, City of, Miller County	290698	April 15, 2005, Emerg; August 1, 2005, Reg; May 18, 2009, Susp.	.....do	Do.
Miller County, Unincorporated Areas	290226	NA, Emerg; October 19, 1998, Reg; May 18, 2009, Susp.	.....do	Do.
Montgomery County, Unincorporated Areas	290242	October 29, 1986, Emerg; March 1, 1987, Reg; May 18, 2009, Susp.	.....do	Do.
Rhineland, Town of, Montgomery County	290243	October 24, 1986, Emerg; October 24, 1986, Reg; May 18, 2009, Susp.	.....do	Do.
Tuscumbia, Village of, Miller County	290228	December 2, 1986, Emerg; March 1, 1987, Reg; May 18, 2009, Susp.	.....do	Do.
Region IX				
California: San Jose, City of, Santa Clara County.	060349	January 23, 1976, Emerg; August 2, 1982, Reg; May 18, 2009, Susp.	.....do	Do.

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

Dated: May 7, 2009.

Deborah Ingram,

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

[FR Doc. E9–11516 Filed 5–15–09; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2008–0020]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

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

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

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Assistant Administrator of the Mitigation Directorate has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

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

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

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

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Transylvania County, North Carolina and Incorporated Areas Docket Nos.: FEMA–D–7826, FEMA–B–7792, FEMA–B–1003			
Allison Creek	Approximately 450 feet upstream of the confluence with Lamb Creek.	+2,116	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 1,100 feet upstream of Camp Straus Road.	+2,187	
Boylston Creek	Approximately 1,500 feet downstream of the Henderson/Transylvania County boundary.	+2,173	Unincorporated Areas of Transylvania County.
	Approximately 50 feet upstream of King Road (State Road 1502).	+2,228	
Carson Creek	At the confluence with French Broad River	+2,137	Unincorporated Areas of Transylvania County.
	Approximately 0.6 mile upstream of Island Ford Road (State Road 1103).	+2,471	
Catheys Creek	Approximately 10 feet upstream of U.S. Highway 64	+2,187	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 1.1 miles upstream of U.S. Highway 64	+2,253	
Davidson River	Approximately 100 feet upstream of Old Henderson Highway.	+2,104	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 50 feet upstream of U.S. 64 Highway	+2,128	
Davidson River (original channel).	The confluence with Davidson River	+2,117	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 1,000 feet upstream from the confluence of Turkey Creek.	+2,127	
Davidson River Tributary 1	At the confluence with Davidson River	+2,109	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 1,440 feet upstream of Ecusta Road	+2,144	
Flat Creek	Approximately 100 feet upstream of the confluence with West French Broad River.	+2,298	Unincorporated Areas of Transylvania County.
	The confluence of North and South Flat Creek	+2,533	
Frozen Creek	At the confluence with West Fork French Broad River	+2,233	Unincorporated Areas of Transylvania County.
	Approximately 500 feet upstream of Frozen Creek Road (State Road 1143).	+2,361	
Graham Creek	Approximately 600 feet upstream of Keystone Camp Road.	+2,167	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 100 feet downstream of East Southwood Drive.	+2,172	
Horsepasture River	Approximately 200 feet downstream of the Jackson/Transylvania County boundary.	+2,968	Unincorporated Areas of Transylvania County.
	At the Jackson/Transylvania County boundary	+2,989	
Hunts Branch	At the confluence with Norton Creek	+2,180	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 640 feet upstream of Probart Street (State Road 1348).	+2,218	
Indian Creek	The confluence with Toxaway River	+2,186	Unincorporated Areas of Transylvania County.
	Approximately 0.6 mile upstream of NC Highway 281	+3,041	
Jumping Branch	Approximately 10 feet upstream of Turnpike Road	+2,141	City of Brevard.
	Approximately 30 feet downstream of Miner Street	+2,163	
King Creek	Approximately 0.6 mile upstream of the confluence with French Broad River.	+2,105	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 0.4 mile upstream of Millbrook Drive	+2,290	
Lime Kiln Creek	Approximately 0.6 mile upstream of the confluence with French Broad River.	+2,150	Unincorporated Areas of Transylvania County.
	Approximately 750 feet upstream of Ross Road (State Road 1334).	+2,213	
Little River	Approximately 1.3 miles upstream of Cascade Lake Road (State Road 1536).	+2,142	Unincorporated Areas of Transylvania County.
	Approximately 300 feet upstream of Casey Lane	+2,745	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Long Branch	The confluence with King Creek	+2,144	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 280 feet upstream of the confluence with King Creek.	+2,144	
Lyday Creek	Approximately 0.7 mile upstream of the confluence with French Broad River.	+2,097	Unincorporated Areas of Transylvania County.
	Approximately 0.7 mile upstream of the confluence of Blythe Branch.	+2,152	
Mason Creek	Approximately 50 feet upstream of Whitmire Road (State Road 1128).	+2,159	Unincorporated Areas of Transylvania County.
	Approximately 0.4 mile upstream of Cherryfield Loop (State Road 1392).	+2,227	
Morton Creek	At the confluence with South Fork Flat Creek	+2,674	Unincorporated Areas of Transylvania County.
	Approximately 1,820 feet upstream of U.S. 64 Highway	+2,700	
North Fork Flat Creek	At the confluence with Flat Creek and South Fork Flat Creek.	+2,533	Unincorporated Areas of Transylvania County.
	Approximately 1,300 feet upstream of Golden Road (State Road 1313).	+2,998	
Norton Creek	At the confluence with Nicholson Creek	+2,128	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 475 feet upstream of Probart Street (State Road 1348).	+2,218	
Osborne Branch	The confluence with Boylston Creek	+2,223	Unincorporated Areas of Transylvania County.
	Approximately 0.7 mile upstream of the confluence with Boylston Creek.	+2,422	
Pole Bridge Branch	The confluence with Little River	+2,698	Unincorporated Areas of Transylvania County.
	Approximately 900 feet upstream of the confluence with Little River.	+2,739	
South Fork Flat Creek	At the confluence with Flat Creek and North Fork Flat Creek.	+2,533	Unincorporated Areas of Transylvania County.
	Approximately 0.5 mile upstream of Flat Creek Valley Road (State Road 1147).	+2,792	
South Prong Turkey Creek	At the confluence with Turkey Creek	+2,252	Unincorporated Areas of Transylvania County.
	Approximately 360 feet upstream of the confluence with Turkey Creek.	+2,269	
Sutton Creek	The confluence with Boylston Creek	+2,228	Unincorporated Areas of Transylvania County.
	Approximately 0.8 mile upstream of Lakeland Drive	+2,497	
Toxaway River	Approximately 5.9 miles upstream of North Carolina/South Carolina boundary.	+2,164	Unincorporated Areas of Transylvania County.
	Approximately 1.0 mile upstream of Cardinal Drive West	+3,390	
Toxaway River Tributary 5	The confluence with Toxaway River	+2,654	Unincorporated Areas of Transylvania County.
	Approximately 0.4 mile upstream of the confluence with Toxaway River.	+3,021	
Toxaway River Tributary 6	The confluence with Toxaway River	+2,643	Unincorporated Areas of Transylvania County.
	Approximately 0.5 mile upstream of the confluence with Toxaway River.	+2,804	
Turkey Creek	At the confluence with Davidson River (original channel)	+2,124	Unincorporated Areas of Transylvania County, City of Brevard.
	Approximately 120 feet upstream of the confluence with South Prong Turkey Creek.	+2,256	
West Fork French Broad River	Approximately 1,600 feet upstream of U.S. Highway 64	+2,247	Unincorporated Areas of Transylvania County.
	Approximately 200 feet upstream of the confluence of Flat Creek.	+2,307	
Whitewater River	At the North Carolina/South Carolina boundary	+1,961	Unincorporated Areas of Transylvania County.
	At the Transylvania/Jackson County boundary	+3,163	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Williamson Creek	Approximately 1,000 feet upstream of Wilson Road (State Road 1540).	+2,105	Unincorporated Areas of Transylvania County.
	Approximately 1,000 feet upstream of the confluence of Camp Creek.	+2,116	
Wilson Mill Creek	Approximately 1,900 feet upstream of the confluence with Catheys Creek.	+2,148	Unincorporated Areas of Transylvania County.
	Approximately 1,900 feet upstream of Forest Road	+2,398	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Brevard
Maps are available for inspection at the City of Brevard Planning Department, 95 West Main Street, Brevard, NC.

Unincorporated Areas of Transylvania County
Maps are available for inspection at the Transylvania County Inspections Department, 98 East Morgan Street, Brevard, NC.

Walworth County, Wisconsin, and Incorporated Areas FEMA Docket No.: B–7755

Eagle Spring Lake	All flooding affecting County	+822	Unincorporated Areas of Walworth County.
Mukwonago River	Approximately 1,700 feet North of the intersection of Marsh Road and County Highway J.	+799	Unincorporated Areas of Walworth County.
	Approximately 1.2 miles Northeast of the intersection of County Highway J and County Highway E.	+806	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Unincorporated Areas of Walworth County
Maps are available for inspection at the Office of Emergency Management, 1770 County Road NN, Elkhorn, WI 53121.

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

Dated: May 11, 2009.

Deborah S. Ingram,

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

[FR Doc. E9–11513 Filed 5–15–09; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF ENERGY

48 CFR Parts 904, 952 and 970

RIN 1991–AB71

Acquisition Regulation: Security Clause

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) to revise the security clause used in all contracts and subcontracts involving access authorizations to specifically require background reviews, and tests for the absence of any illegal drug, as defined in DOE regulations of uncleared personnel (employment applicants and current employees), who will require access authorizations. Background reviews would not be required for applicants for DOE access authorization who possess a current access authorization from another Federal agency.

DATES: *Effective Date:* June 17, 2009.

FOR FURTHER INFORMATION CONTACT: Richard Langston at 202–287–1339 or *Richard.Langston@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments and Responses
III. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under Executive Order 12988
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under the National Environmental Policy Act
F. Review Under Executive Order 13132
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 13211
J. Review Under the Treasury and General Government Appropriations Act, 2001
K. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996
L. Approval by the Office of the Secretary of Energy

I. Background

Many DOE contractor and subcontractor employees require access authorizations for access to classified information (restricted data, formerly restricted data, or national security information) or certain quantities of special nuclear material in order to perform official duties. On February 19, 2008, DOE published a notice of proposed rulemaking to revise the Department of Energy Acquistion (DEAR) regulations to require the security clause used in certain contracts and subcontracts to specifically require contractors and subcontractors to conduct background checks and tests for illegal drugs of uncleared applicants and employees who will require DOE access authorizations (73 FR 9071). Under the proposed rule, the background check included the

collection and review by the contractor of items such as credit checks, and contacts with personal references and certain past employers. It then required contractors to assess the ''job qualifications and suitability'' of uncleared applicants and employees before assigning them to positions requiring an access authorization and before requesting that DOE process the individual for an access authorization. A contractor would determine ''suitability'' by assessing the possible impact of ''adverse information'' found in the background check and deciding whether it is ''confident'' that an individual would pass the rigorous background investigation conducted by DOE for a position requiring an access authorization. A contractor's assessment of the information would be guided by the criteria set forth in 10 CFR 710.8, used by the federal government to assess an individual's eligibility for an access authorization.

After considering public comments, DOE today revises several sections of the proposed rule, including amending Section 952.204–2(h)(2) to eliminate the requirement that a contractor consider the criteria in 10 CFR 710.8 in determining whether to select an individual for a position requiring an access authorization. In particular, the requirement that a contractor determine an applicant's ''suitability'' for an access authorization has been removed. Rather, a contractor must conduct a background check (now defined in the final rule as a ''review'' or ''background review'') of such individuals prior to selection, evaluate the individual based on its own processes and consistent with applicable law, and then send specified information set out in the rule to DOE.

Other changes to the proposed rule include revising Section 904.404 to add a requirement in paragraph (d)(1) that the security clause is required in any contract that will involve contractor employees' access to special nuclear material. That requirement reflects past DOE practice and is being added to make the instruction clear and complete. Section 952.204–2, Security, is revised by changing the title of the section to ''Security'' and by revising its introductory text to conform to the more recent Federal Acquisition Regulation format. As a matter of administrative convenience, in addition to the provisions regarding the review of employees and applicants, the rule includes provisions implementing certain technical changes to the format of the DEAR provisions at issue here. Some of the requirements at 970.2201–1–2, are appropriate to other types of contracts if access authorizations are required, so language at 970.2201–1–2 is being restated in the security clause.

II. Comments and Responses

Comments were received from three organizations, two of which were from DOE National Laboratories and another from an aircraft manufacturer.

The first DOE National Laboratory offered 4 comments.

Comment 1.

This comment regards the contract clause entitled Security at 952.204–2, specifically (2) Job Qualifications and Suitability.

This section directs contractors to assess the possible impact of adverse information found during the course of a background check relative to the individual's suitability for a position requiring an access authorization and act accordingly. Criteria cited following this statement are the access authorization criteria found in 10 CFR 710.8, however criteria referenced earlier in the section cites background checks are being used to determine employment suitability in accordance with the contractor's personnel policies.

It is unclear as to what is required to be determined, suitability for employment or suitability for an access authorization. Suitability for an access authorization in accordance with 10 CFR 710.8 is an adjudicative decision rendered by a federal employee who has been designated and trained to perform this function. Is it expected that the contractor, after assessing the impacts of adverse information in accordance with 10 CFR 710.8, refuse to submit an individual for an access authorization even though the individual has been determined eligible for employment in accordance with the contractor's personnel policies?

Under what adjudicative authority is this determination authorized?

Response 1.

DOE is revising Section 952.204–2(h)(2) to eliminate: (1) the requirement that a contractor apply the criteria at 10 CFR 710.8 in determining whether to select an uncleared applicant or uncleared employee for a position requiring an access authorization; and (2) any requirement that a contractor determine the ''suitability'' of an individual for an access authorization. The rule has been revised to clarify that it only requires a contractor to collect information and conduct a review of an uncleared applicant or uncleared employee, prior to selecting an individual for a position requiring an access authorization, to evaluate that individual pursuant to the contractor's personnel policies and applicable law, and then to send to the head of the cognizant local DOE Security Office the information set out in the regulation at Section 952.204–2(h)(2)(vi) for selected individuals. Under this rule, a decision as to whether an individual is eligible for an access authorization remains a DOE or Federal security decision.

Comment 2.

For individuals under contract who require an access authorization or small companies where the company owners are the employees, are background checks required? Who renders the determination? What suitability is being determined and under what criteria—employment or access authorization?

Response 2.

An individual's status as an employee, manager or owner has no bearing on DOE's determination as to whether to grant the individual an access authorization.

Comment 3.

This comment regards paragraph (j) Foreign Ownership, Control or Influence (FOCI) of the Security clause.

DOE facility clearance requirements as promulgated in DOE M 470.4–1, Chg. 1, require processing of facility clearances for circumstances that do not involve access authorizations (i.e., Cat IV SNM, possession of hazardous materials that present radiological/toxicological/biological sabotage threats and possession of DOE property greater than five million dollars in value). Foreign Ownership, Control or Influence requirements only apply when access authorizations are required. The comment recommends that this paragraph's applicability be qualified.

Response 3.

Generally, only contracts involving restricted data or national security information or access to special nuclear material and thus requiring access authorizations would require use of the Security clause. DOE M 470.4–1, Chg. 1, at paragraph 5.b.2., requires Foreign Ownership, Control or Influence coverage in any contract containing the Security clause. DOE does not believe any further applicability guidance is necessary. In the situation where a Foreign Ownership, Control or Influence determination and a facility clearance are required, but access authorizations will not be required for the employees of the contractor, the pre-employment review and drug tests that are described in the security clause are not required since these requirements are only applicable to positions requiring access authorizations.

Comment 4.

This comment relates to paragraph (l), Flow down to subcontracts, of the security clause.

Given the applicability of the facility clearance requirements, flow down to only those contracts that require access authorizations appears to be inconsistent. In addition, the criteria relative to employment eligibility identified in Part 970 apply to DOE management and operating (M&O) contractors. What criteria are to be used for contractors who are not M&O contractors?

Response 4.

This rule does not specify criteria that a DOE M&O or a non-M&O contractor must use in assessing the eligibility for *employment* of an individual that the contractor is considering for a position requiring an access authorization. Nor is the rule limited to M&O contractors. Rather, it incorporates changes to both Parts 952 and 970. Paragraph (l) of the security clause at 952.204–2 correctly states that the rule is applicable to all contracts and subcontracts which involve restricted data, national security information, or special nuclear material.

Facility clearances are the subject of a separate clause at 952.204–73 and involve the assessment of a *facility,* not the assessment of *individuals* for access to restricted data, national security information, or possession of special nuclear material, which is the subject of this rulemaking. Moreover, a facility clearance may be required for reasons other than restricted data, national security information, or possession of special nuclear material. For example, a facility clearance may be required where a contractor has possession of unusually valuable Government property. Not all individual contractor employees at a facility that hold a facility clearance are required to have access authorizations. Only the individual contractor employees at such facilities who require access to restricted data, national security information, or possession of special nuclear material at sites with facility clearances need access authorizations.

The second DOE National Laboratory offered 1 comment.

Comment 5.

Paragraph (h)(2) of the proposed security clause amendment contains the following statement:

''Contractors must propose personnel to work in positions requiring access authorizations only if they are confident that the individuals will pass the rigorous background review that DOE will conduct.''

DOE's rigorous background review is based on criteria found at 10 CFR 710.8. Those criteria include references to a person's likely place of origin (e), illness or mental condition (h), alcohol dependence (j), bankruptcy—pattern of financial irresponsibility (l), among others. While the proposed rule represents an understandable aspiration, the proposed rule places contractors in an untenable position. Contractors would be required to violate anti-discrimination laws, the Americans with Disabilities Act, and the bankruptcy laws, among others. This situation is not one contractors relish. The Government alone is traditionally authorized to make decisions involving trade-offs between the Government's legitimate goals of treating its citizens fairly and its national security interests. If a contractor refused to hire or retain an individual for one of the reasons above, the contractor would open the door to litigation; litigation that would not arise if the Government exercises its inherent functions.

DOE Response 5.

DOE has removed all references to the criteria found at 10 CFR 710.8, and will, under this rule, require contractors to comply with all laws, regulations, and Executive Orders in processing an individual's information and in considering whether to select an individual for a position requiring an access authorization.

The aircraft manufacturer offered 7 comments.

Comment 6.

The reviewer noted that the proposed Security clause at page 9073 was dated 2007 and suggested that it should be changed.

Response 6.

DOE agrees and the rule will specify the correct month and year of the clause's effective date in this final rule.

Comment 7.

Subparagraph (a) of the proposed security clause contains references to the terms ''classified information,'' ''classified documents,'' ''classified matter,'' and ''classified materials,'' which are confusing. We believe that the terms ''classified matter'' at lines 16 and 21, ''material'' at line 25, and ''matter'' at line 30 of the clause should all be revised to the terms ''classified documents'' or ''classified articles.''

Response 7.

DOE has made clarifying changes in response to this comment. DOE is revising the second sentence to read ''The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material and special nuclear material), which is in the contractor's possession in connection with the performance of work under this contract, against sabotage, espionage, loss or theft.'' Additionally, DOE is changing ''material'' to ''matter'' where it is used in the fourth sentence, and is changing ''matter'' in the fifth sentence to ''classified matter.'' The two uses of ''classified matter'' in the third and fourth sentences are correct because classified matter can be any combination of classified documents or other classified material.

Comment 8.

Under the terms of subparagraph (h)(2) of the proposed security clause, the contractor is responsible for conducting the background investigation and forwarding the results to DOE. This would seem risky because it necessitates two investigations, one by the contractor and another by DOE to verify what the contractor submitted. Also, at subparagraph (h)(2), DOE should revise ''afforded access to classified information or matter'' to ''afforded access to classified information, classified documents, or classified articles.''

Response 8.

The rule has been revised to clarify that the review required by the security clause is for the purpose of gathering information to be considered by the contractor before selecting an individual for a position that requires a DOE access authorization. It is not the equivalent of the background investigation that will be conducted by the federal government prior to the granting or denial of an access authorization request. With respect to the suggested language change, DOE believes the proposed language—''afforded access to classified information or matter''—is technically correct, and therefore, is not adopting the suggestion.

Comment 9.

At subparagraph (h)(3)(i) of the proposed clause, revise the term ''classified information'' in lines 5 and 6 to ''classified information and classified documents.''

Response 9.

The Department does not adopt this recommendation because it would be inappropriate for this prohibition to apply only when both classified information and classified documents are disclosed to the same, unauthorized person. The term ''classified information'' is inclusive in that documents, parts, audible conversation, matter in cyber (electronic) or other form, etc. all become classified on the basis of their containing, revealing, or embodying classified information.

Comment 10.

At subparagraph (j) ''Foreign Ownership, Control or Influence,'' failure to satisfy the requirements of the clause is grounds for termination for default per paragraph (j)(4). We believe

what is intended is default for failure to comply with subparagraph (j)(1). We believe the term ''this clause'' should be revised to read paragraph (j)(1).

Response 10.

DOE does not wish to limit its right to terminate to just paragraph (j)(1).

Comment 11.

Subparagraph (k), ''Employment announcements'' requires a contractor to include a detailed notification in a written vacancy announcement. Failing to follow this requirement explicitly should not be a justification for the contracting officer to terminate the contractor for default. The requirement should be clarified as to whether it applies to internal announcements as well.

Response 11.

DOE will determine the appropriate remedy for failure to comply with the requirements for notice about reviews and drug testing requirements in vacancy announcements on a case-by-case basis. This final rule does not cover language included in an announcement that is internal to the contractor's workplace.

Comment 12.

The reviewer suggests that subparagraph (k) be revised to require that applicants be told that a background check, drug testing, etc., will be required rather than requiring contractors to include this detail in the vacancy announcement. The reviewer questions the benefit from including the detail in the vacancy announcement and is concerned it simply announces to the world that the employer does classified work for the United States Government.

Response 12.

DOE is retaining the requirement that advance notice be given to potential applicants as part of the written vacancy announcement. This ensures that all applicants are given the same advance notification of the requirements before time and effort are expended by the applicant and employee.

III. Procedural Requirements.

A. Review Under Executive Order 12866

This regulatory action has been determined not to be a significant regulatory action under Executive Order 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993). Accordingly, this final rule is not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget.

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, Civil Justice Reform (61 FR 4729, February 7, 1996), imposes on executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or that it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, these regulations meet the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* which requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment and that is likely to have a significant economic impact on a substantial number of small entities. The rule would not have a significant economic impact on small entities because it imposes no significant burdens. Any costs incurred by DOE contractors complying with the rule would be reimbursed under the contract.

Accordingly, DOE certifies that this rule would not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis is required and none has been prepared.

D. Review Under the Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements. Information collection or recordkeeping requirements mentioned in this rule relative to the facility clearance and access authorization processes have been previously cleared under Office of Management and Budget (OMB) paperwork clearance package number 0704–0194 for facility clearances processed by the Department of Defense for Standard Form (SF) 283, or package number 3206–0007 processed by the Office of Personnel Management for personnel access authorizations using SF 86.

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions which would not individually or cumulatively have significant impact on the human environment, as determined by DOE's regulations (10 CFR Part 1021, Subpart D) implementing the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule is categorically excluded from NEPA review because the amendments to the DEAR would be strictly procedural (categorical exclusion A6). Therefore, this rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

F. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt state law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the states and carefully assess the necessity for such actions. DOE has examined today's rule and has determined that it does not preempt state law and does 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. No further action is required by Executive Order 13132.

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires a federal agency to perform a detailed assessment of costs and benefits of any rule imposing a federal mandate with costs to state, local or tribal governments, or to the private sector, of $100 million or more in any single year. This rule does not impose a federal

mandate on state, local or tribal governments or on the private sector.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires federal agencies to issue a Family Policymaking Assessment for any rule or policy that may affect family well-being. This rule will have no impact on family well being.

I. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001), requires federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001, 44 U.S.C. 3516 note, provides for agencies to review most disseminations of information to the public under implementing guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, the Department will report to Congress promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(3).

L. Approval by the Office of the Secretary of Energy.

The Office of the Secretary of Energy has approved issuance of this final rule.

List of Subjects in 48 CFR Parts 904, 952 and 970

Government procurement.

Issued in Washington, DC, on May 13, 2009.

Edward R. Simpson,

Director, Office of Procurement and Assistance Management, Office of Management, Department of Energy.

David O. Boyd,

Director, Office of Acquisition and Supply Management, National Nuclear Security Administration.

■ For the reasons set out in the preamble, DOE amends Chapter 9 of Title 48 of the Code of Federal Regulations as set forth below:

PART 904—ADMINISTRATIVE MATTERS

■ 1. The authority citations for parts 904 and 952 continue to read as follows:

Authority: 42 U.S.C. 7101, *et seq.*; 41 U.S.C. 418(b); 50 U.S.C. 2401, *et seq.*

■ 2. In section 904.401, add in alphabetical order, new definitions for ''applicant'' and ''review or background review'' and revise the definitions of ''classified information'' and ''restricted data'' to read as follows:

904.401 Definitions.

* * * * *

Applicant means an individual who has submitted an expression of interest in employment; who is under consideration by the contractor for employment in a particular position; and who has not removed himself or herself from further consideration or otherwise indicated that he or she is no longer interested in the position.

Classified information means information that is classified as restricted data or formerly restricted data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, Classified National Security Information, as amended, or prior executive orders, which is identified as national security information.

* * * * *

Restricted data means all data concerning design, manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in the production of energy, but excluding data declassified or removed from the restricted data category pursuant to Section 142, as amended, of the Atomic Energy Act of 1954 (42 U.S.C. 2162).

* * * * *

Review or background review means a Contractor's assessment of the background of an uncleared applicant or uncleared employee for a position requiring a DOE access authorization prior to selecting that individual for such a position.

904.404 [Amended]

■ 3. Section 904.404 is amended by adding the words '', access to special nuclear materials or the provision of protective services'' after the words ''classified information'' at the end of the first sentence of paragraph (d)(1).

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Section 952.204–2 is revised to read as follows:

952.204–2 Security.

As prescribed in 904.404(d)(1), the following clause shall be included in contracts entered into under section 31 (research assistance, 42 U.S.C. 2051), or section 41 (ownership and operation of production facilities, 42 U.S.C. 2061) of the Atomic Energy Act of 1954, and in other contracts and subcontracts which involve or are likely to involve classified information or special nuclear material.

SECURITY (JUNE 2009)

(a) *Responsibility.* It is the Contractor's duty to protect all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material and special nuclear material) which are in the Contractor's possession in connection with the performance of work under this contract against sabotage, espionage, loss or theft. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter or special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by

the Contractor of any classified matter is required after the completion or termination of the contract, the Contractor shall identify the items and classification levels and categories of matter proposed for retention, the reasons for the retention, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security provisions of the contract shall continue to be applicable to the classified matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.

(b) *Regulations.* The Contractor agrees to comply with all security regulations and contract requirements of DOE in effect on the date of award.

(c) *Definition of Classified Information.* The term *Classified Information* means information that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, *Classified National Security Information,* as amended, or prior executive orders, which is identified as *National Security Information.*

(d) *Definition of Restricted Data.* The term *Restricted Data* means all data concerning design, manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. 2162 [Section 142, as amended, of the Atomic Energy Act of 1954].

(e) *Definition of Formerly Restricted Data.* The term *''Formerly Restricted Data''* means information removed from the Restricted Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information: (1) Relates primarily to the military utilization of atomic weapons; and (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other countries or regional defense organizations that apply to Restricted Data.

(f) *Definition of National Security Information.* The term ''*National Security Information''* means information that has been determined, pursuant to Executive Order 12958, Classified National Security Information, as amended, or any predecessor order, to require protection against unauthorized disclosure, and that is marked to indicate its classified status when in documentary form.

(g) *Definition of Special Nuclear Material.* The term ''special nuclear material'' means: (1) Plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which, pursuant to 42 U.S.C. 2071 [section 51 as amended, of the Atomic Energy Act of 1954] has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(h) *Access authorizations of personnel.* (1) The Contractor shall not permit any individual to have access to any classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and the DOE's regulations and contract requirements applicable to the particular level and category of classified information or particular category of special nuclear material to which access is required.

(2) The Contractor must conduct a thorough review, as defined at 48 CFR 904.401, of an uncleared applicant or uncleared employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.

(i) A review must: Verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct local law enforcement checks when such checks are not prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in the jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

(ii) Contractor reviews are not required for an applicant for DOE access authorization who possesses a current access authorization from DOE or another Federal agency, or whose access authorization may be reapproved without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3.3(c) and (d).

(iii) In collecting and using this information to make a determination as to whether it is appropriate to select an uncleared applicant or uncleared employee to a position requiring an access authorization, the Contractor must comply with all applicable laws, regulations, and Executive Orders, including those: (A) Governing the processing and privacy of an individual's information, such as the Fair Credit Reporting Act, Americans with Disabilities Act (ADA), and Health Insurance Portability and Accountability Act; and (B) prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer of employment disability related questioning.

(iv) In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 707.4. All positions requiring access authorizations are deemed *testing designated positions* in accordance with 10 CFR Part 707. All employees possessing access authorizations are subject to applicant, random or for cause testing for use of illegal drugs. DOE will not process candidates for a DOE access authorization unless their tests confirm the absence from their system of any illegal drug.

(v) When an uncleared applicant or uncleared employee receives an offer of employment for a position that requires a DOE access authorization, the Contractor shall not place that individual in such a position prior to the individual's receipt of a DOE access authorization, unless an approval has been obtained from the head of the cognizant local security office. If the individual is hired and placed in the position prior to receiving an access authorization, the uncleared employee may not be afforded access to classified information or matter or special nuclear material (in categories requiring access authorization) until an access authorization has been granted.

(vi) The Contractor must furnish to the head of the cognizant local DOE Security Office, in writing, the following information concerning each uncleared applicant or uncleared employee who is selected for a position requiring an access authorization:

(A) The date(s) each Review was conducted;

(B) Each entity that provided information concerning the individual;

(C) A certification that the review was conducted in accordance with all applicable laws, regulations, and Executive Orders, including those governing the processing and privacy of an individual's information collected during the review;

(D) A certification that all information collected during the review was reviewed and evaluated in accordance with the Contractor's personnel policies; and

(E) The results of the test for illegal drugs.

(i) *Criminal liability*. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to protect any classified information, special nuclear material, or other Government property that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or Subcontractors to criminal liability under the laws of the United States (see the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq.*; 18 U.S.C. 793 and 794).

(j) *Foreign Ownership, Control, or Influence*. (1) The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor which would affect any answer to the questions presented in the Standard Form (SF) 328, *Certificate Pertaining to Foreign Interests*, executed prior to award of this contract. In addition, any notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice, shall also be furnished concurrently to the Contracting Officer.

(2) If a Contractor has changes involving foreign ownership, control, or influence, DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, DOE will consider proposals made by the Contractor to avoid or mitigate foreign influences.

(3) If the cognizant security office at any time determines that the Contractor is, or is potentially, subject to foreign ownership, control, or influence, the Contractor shall comply with such instructions as the Contracting Officer shall provide in writing

to protect any classified information or special nuclear material.

(4) The Contracting Officer may terminate this contract for default either if the Contractor fails to meet obligations imposed by this clause or if the Contractor creates a foreign ownership, control, or influence situation in order to avoid performance or a termination for default. The Contracting Officer may terminate this contract for convenience if the Contractor becomes subject to foreign ownership, control, or influence and for reasons other than avoidance of performance of the contract, cannot, or chooses not to, avoid or mitigate the foreign ownership, control, or influence problem.

(k) *Employment announcements.* When placing announcements seeking applicants for positions requiring access authorizations, the Contractor shall include in the written vacancy announcement, a notification to prospective applicants that reviews, and tests for the absence of any illegal drug as defined in 10 CFR 707.4, will be conducted by the employer and a background investigation by the Federal government may be required to obtain an access authorization prior to employment, and that subsequent reinvestigations may be required. If the position is covered by the Counterintelligence Evaluation Program regulations at 10 CFR Part 709, the announcement should also alert applicants that successful completion of a counterintelligence evaluation may include a counterintelligence-scope polygraph examination.

(l) *Flow down to subcontracts.* The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph, in all subcontracts under its contract that will require Subcontractor employees to possess access authorizations. Additionally, the Contractor must require such Subcontractors to have an existing DOD or DOE facility clearance or submit a completed SF 328, *Certificate Pertaining to Foreign Interests*, as required in DEAR 952.204–73 and obtain a foreign ownership, control and influence determination and facility clearance prior to award of a subcontract. Information to be provided by a Subcontractor pursuant to this clause may be submitted directly to the Contracting Officer. For purposes of this clause, Subcontractor means any Subcontractor at any tier and the term ''Contracting Officer'' means the DOE Contracting Officer. When this clause is included in a subcontract, the term ''Contractor'' shall mean Subcontractor and the term ''contract'' shall mean subcontract.

(End of Clause)

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

■ 5. The authority citation for part 970 continues to read as follows:

Authority: 42 U.S.C. 2201, 2282a, 2282b, 2282c; 42 U.S.C. 7101 *et seq.*; 41 U.S.C. 418b; 50 U.S.C. 2401 *et seq.*

970.0470–1 [Amended]

■ 6. Section 970.0470–1(b) is amended by revising both mentions of ''Directives System'' to read ''Directives Program.''

970.2201–1 [Amended]

■ 7. Section 970.2201–1–1 is amended by removing the term ''guidance'' and adding in its place ''requirements.''

■ 8. In section 970.2201–1–2, paragraphs (a)(1)(i), (ii) and (iii) are revised and paragraphs (a)(1)(iv), (v) and (vi) are added to read as follows:

970.2201–1–2 Policies.

(a)(1) * * *

(i) Management and operating contractors are expected to bring experienced, proven personnel from their private operations to staff key positions on the contract and to recruit other well-qualified personnel as needed. Such personnel should be employed and treated during employment without discrimination by reason of race, color, religion, sex, age, disability, or national origin. Contractors shall be required to take affirmative action to achieve these objectives.

(ii) The Contractor must conduct a thorough review, as defined at 48 CFR 904.401, of an uncleared applicant's or uncleared employee's background, and test the individual for illegal drugs, as part of its determination to select that individual for a position requiring a DOE access authorization.

(A) A review must: Verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct local law enforcement checks when such checks are not prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in the jurisdiction where the contractor is located; and conduct a credit check and other checks as appropriate.

(B) Contractor reviews are not required for an applicant for DOE access authorization who possesses a current access authorization from DOE or another federal agency, or whose access authorization may be reapproved without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3.3(c) and (d).

(C) In collecting and using this information to make a determination as to whether it is appropriate to select an uncleared applicant or uncleared employee for a position requiring an access authorization, the contractor must comply with all applicable laws, regulations, and Executive Orders, including those:

(*1*) Governing the processing and privacy of an individual's information by employers, such as the Fair Credit Reporting Act, Americans with Disabilities Act (ADA), and Health Insurance Portability and Accountability Act; and

(*2*) Prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer of employment disability related questioning.

(iii) In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 707.4. All positions requiring access authorizations are deemed *testing designated positions* in accordance with 10 CFR Part 707. All employees possessing access authorizations are subject to applicant, random or for cause testing for use of illegal drugs. DOE will not process candidates for a DOE access authorization unless their tests confirm the absence of any illegal drug.

(iv) When an uncleared applicant or uncleared employee is hired specifically for a position that requires a DOE access authorization, the contractor shall not place that individual in that position prior to the access authorization being granted by DOE, unless an approval has been obtained from the contracting officer, acting in consultation for these purposes with the head of the cognizant local security office. If an uncleared employee is placed in that position prior to an access authorization being granted by the contracting officer, the uncleared employee may not be afforded access to classified information or matter or special nuclear material (in categories requiring access authorization) until the contracting officer notifies the employer that an access authorization has been granted.

(v)(A) The contractor must furnish to the head of the cognizant local DOE Security Office, in writing, the following information concerning each uncleared applicant or uncleared employee who is selected for a position requiring an access authorization:

(*1*) The date(s) each review was conducted;

(*2*) Each entity contacted that provided information concerning the individual;

(*3*) A certification that the review was conducted in accordance with all applicable laws, regulations, and Executive Orders, including those governing the processing and privacy of an individual's information collected during the review;

(*4*) A certification that all information collected during the review was reviewed and evaluated in accordance with the contractor's personnel policies; and

(*5*) The results of the test for illegal drugs.

When a DOE access authorization will be required, the aforementioned review must be conducted and the required information forwarded to DOE before a request is made to DOE to process the individual for an access authorization.

(vi) Management and operating contractors and other contractors operating DOE facilities shall include the requirements set forth in this subsection in subcontracts (appropriately modified to identify the parties) wherein subcontract employees will be required to hold DOE access authorizations in order to perform on-site duties, such as protective force operations.

* * * * *

[FR Doc. E9–11522 Filed 5–15–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 09100091344–9056–02]

RIN 0648–XN93

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish, Pacific Ocean Perch, and Pelagic Shelf Rockfish in the Western Regulatory Area and West Yakutat District 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, Pacific ocean perch, and pelagic shelf rockfish for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the Western Regulatory Area and West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the sideboard limits of northern rockfish, Pacific ocean perch, and pelagic shelf rockfish established for catcher vessels in the Western Regulatory Area and West Yakutat District of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2009, through 2400 hrs, A.l.t., July 31, 2009.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

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 sideboard limits established for catcher vessels subject to sideboard limits in the Central GOA Rockfish Program in the West Yakutat District are 32 metric tons (mt) for Pacific ocean perch and 4 mt for pelagic shelf rockfish. In addition, the 2009 sideboard limits established for catcher vessels subject to sideboard limits under the Central GOA Rockfish Program in the Western Regulatory Area are 0 mt for northern rockfish, Pacific ocean perch, and pelagic shelf rockfish. The sideboard limits are established by the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2009).

In accordance with § 679.82(d)(7)(i)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that these sideboard limits are insufficient to support a directed fishing allowance for Pacific ocean perch and pelagic shelf rockfish in the West Yakutat District, as well as insufficient to support a directed fishing allowance for Pacific ocean perch, pelagic shelf rockfish, and northern rockfish in the Western Regulatory Area. Therefore, the Regional Administrator is setting a directed fishing allowance of 0 mt for each of these sideboard species in the West Yakutat District and Western Regulatory Area. Consequently, pursuant to § 679.82(d)(7)(ii) NMFS is prohibiting directed fishing for Pacific ocean perch and pelagic shelf rockfish in the West Yakutat District and for northern rockfish, Pacific ocean perch, and pelagic shelf rockfish in the Western Regulatory Area by catcher vessels subject to sideboard limits in the Central GOA Rockfish Program, effective 1200 hrs, A.l.t, July 1, 2009, through 2400 hrs, A.l.t., July 31, 2009.

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. Pursuant to 5 U.S.C. 553 (b)(B), the Assistant Administrator for Fisheries, NOAA (AA) finds good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary. Notice and comment is unnecessary because the closure is non–discretionary; pursuant to § 679.82(d)(7)(ii), the Regional Administrator has no choice but to prohibit directed fishing once it is determined that the directed fishing sideboard limit has been attained.

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 § 679.82 and is exempt from review under Executive Order 12866.

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

Dated: May 11, 2009.

Kristen C. Koch,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–11539 Filed 5–15–09; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 94
Monday, May 18, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Doc. # AMS–FV–07–0140]

United States Standards for Grades of Table Grapes (European or Vinifera Type)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is withdrawing the document soliciting comments on its proposal to amend the voluntary United States Standards for Grades of Table Grapes (European or Vinifera Type). After reviewing and considering the comments received, the agency has decided not to proceed with this action.

DATES: *Effective Date:* The proposed rule published February 26, 2008 (73 FR 10185), is withdrawn as of May 18, 2009.

FOR FURTHER INFORMATION CONTACT: Dr. Carl Newell, Standardization and Training Section, Fresh Products Branch, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406–1016; Telephone: (540) 361–1120; or Fax: (540) 361–1199. The United States Standards for Grades of Table Grapes (European or Vinifera Type) are available by accessing the Fresh Products Branch Web site at: *http://www.ams.usda.gov/freshinspection*.

Background

In November of 2005, AMS received petitions from two trade associations requesting a revision to the United States Standards for Grades of Table Grapes (European or Vinifera Type). These petitions were received from the California Grape and Tree Fruit League on November 9, 2005, and Western Growers on November 25, 2005. These two trade associations represent more than 85 percent of the European or Vinifera type table grape production in the United States. They requested an additional 10 percent allowance for shattered berries en route or at destination for grapes in consumer containers. The petitioners stated that changes to the standard, specifically limited to shattered berries packed in consumer containers, are warranted because the majority of table grapes are now being sold in consumer containers which allow shattered berries to be fully utilized/sold.

Prior to undertaking detailed work to develop a proposed revision to the standards, AMS published an advanced notice of proposed rulemaking (ANPR) on January 24, 2006, in the **Federal Register** (71 FR 3818) soliciting comments on a proposal to revise the standards. Based on comments received, AMS published a proposed rule on September 22, 2006, in the **Federal Register** (71 FR 55367) proposing to modify the standard by adding a 10 percent allowance for shattered grapes in consumer containers. Due to lack of industry consensus concerning the proposed rule, AMS published in the **Federal Register** (72 FR 35668) a notice to withdraw the proposed rule on June 29, 2007.

The withdrawal stated that AMS would continue to work with interested parties regarding the subject of shattered berries. AMS subsequently met with the representatives from the California Grape and Tree Fruit League, the North American Perishable Agricultural Receivers, and other wholesale produce receivers to gather additional background information in order to consider possible future revisions.

On October 5, 2007, AMS received a second petition from the California Grape and Tree Fruit League requesting a revision to the United States Standards for Grades of Table Grapes (European or Vinifera Type). The petitioner repeated the original request for an additional 10 percent allowance for shattered grapes en route or at destination for grapes in consumer containers. However, AMS did not propose the 10 percent allowance. AMS was concerned that this percentage would weaken the standard and reduce consumer confidence in the grade. In recognizing that the majority of grapes now sold at retail are packaged in consumer containers, AMS proposed a smaller change in the allowance. Therefore, on February 26, 2008, AMS published a proposed rule in the **Federal Register** (73 FR 10185) proposing a 5 percent allowance for shattered grapes in consumer containers.

AMS received 58 comments from the table grape industry. These comments are available by accessing the AMS, Fresh Products Branch Web site at: *http://www.ams.usda.gov/freshinspection* or *http://www.regulations.gov*.

Thirty-three comments supported the proposal. Three were from regional agricultural trade associations; one comment was from a national table grape association; and 29 were from growers, packers, and shippers. Supporting comments indicated that changes in grading are necessary to recognize improvements made in packaging, marketing, and shipping of grapes. They expressed that the proposed allowance for shatter would strengthen the United States Standards for Grades of Table Grapes (European or Vinifera Type). These comments stated that consumers are buying shattered berries in bags and clamshells resulting in less shrink. They also stated that the key to consumer acceptance of low to medium amounts of shattered berries is the healthy appearance of the berry (a whole and sound berry that is free from other visible defects), not just whether the berry is attached to the stem.

Twenty-five comments opposed the proposal. Two comments were received from national trade associations, one from a Chilean trade association, and 22 comments were received from wholesalers, receivers, and distributors. Opposing comments stated that shattered berries were weaker berries more susceptible to microbiological contamination and are more prone to develop other defects than berries that are still attached to the stem. They also commented that in their experience, customers seek out the bags with the most berries still attached to the stem. These comments conveyed that containers with higher amounts of shattered grapes sit in produce cases longer increasing the amount of shrink compared to containers with less shattered grapes present. Commenters opposed to the proposed changes were also concerned that the proposed allowance would weaken the United States Standards for Grades of Table Grapes (European or Vinifera Type).

AMS has reviewed all comments and we note that improvements in packaging for table grapes have occurred. Nonetheless, there were conflicting comments received that specifically raised questions regarding: (1) Marketability and subsequent shrink, due to changes in packaging; and (2) the effect this proposed rule would have on individual businesses. Further, we note that there is a lack of independent data available to clarify these issues. In such circumstances, there continues to be no clear consensus among industry segments to support a proposed rule. Accordingly AMS will not proceed with this action. However, AMS will continue to work with the industry to revise the current U.S. Grade standards to better reflect the current marketing of this and other agricultural products.

Authority: 7 U.S.C. 1621–1627.

Dated: May 12, 2009.

Robert C. Keeney,

Acting Associate Administrator.

[FR Doc. E9–11491 Filed 5–15–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0545; Directorate Identifier 2008–NE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of the comment period.

SUMMARY: This supplemental NPRM revises an earlier proposed airworthiness directive (AD), applicable to Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 propellers. That proposed AD would have required initial and repetitive visual inspections of propeller blade root outer sleeves for cracks, and removal before further flight of propeller blades with cracked blade root outer sleeves. That proposed AD resulted from mandatory continuing airworthiness information (MCAI) issued by the European Aviation Safety Agency (EASA) to identify and correct an unsafe condition on certain Dowty propellers. This supplemental NPRM revises the proposed AD to correct the listing of propeller models affected. This supplemental NPRM results from the discovery that we need to correct one of the propeller model numbers affected, and to remove an erroneous propeller model number. We are proposing this AD to prevent blade counterweight release, which could result in injury or damage to the airplane. The MCAI describes the unsafe condition as:

A number of propeller blade outer sleeves have been found with cracks since 1996. Testing has shown that blade retention integrity is not affected by this cracking. However, this condition, if not detected and corrected, can lead to blade counterweight release, possibly resulting in damage to the aircraft and injury to occupants or persons on the ground.

We are proposing this AD to prevent blade counterweight release, which could result in injury or damage to the airplane.

DATES: We must receive comments on this proposed AD by June 17, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *terrance.fahr@faa.gov*; telephone (781) 238–7155; fax (781) 238–7170.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0545; Directorate Identifier 2008–NE–16–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Discussion

EASA, which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2008–0033, dated February 19, 2008, to correct an unsafe condition for the specified products. The EASA AD states:

A number of propeller blade outer sleeves have been found with cracks since 1996. Testing has shown that blade retention integrity is not affected by this cracking. However, this condition, if not detected and corrected, can lead to blade counterweight release, possibly resulting in damage to the aircraft and injury to occupants or persons on the ground.

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

Relevant Service Information

Dowty Propellers has issued Alert Service Bulletin No. SF340–61–A106, Revision 1, dated March 20, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom, and is approved for operation in the United States. Pursuant to our bilateral agreement with the United Kingdom, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This Supplemental NPRM requires initial and repetitive visual inspections of propeller blade root outer sleeves for cracks, and removal before further flight of propeller blades with cracked blade root outer sleeves.

Comments

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

Request to Reference the Latest Service Bulletin

One commenter, Colgan Air, requests that we reference the latest service bulletin, which is Dowty Propellers Alert Service Bulletin No. SF340–61–A106, Revision 1, dated March 20, 2008.

We agree and changed that reference in this Supplemental NPRM.

Request to Clarify Airplane Manufacturer

One commenter, SAAB AB, SAAB Aerosystems, requests that we clarify that ''340B airplanes'' should be referred to as ''SAAB 340B airplanes''.

We agree and clarified that reference in this Supplemental NPRM.

Need To Correct the Listing of Propeller Models Affected

We discovered the need to correct the listing of the propeller models affected that was included in the original NPRM published in the **Federal Register** on June 30, 2008 (73 FR 36819). That listing, which is Dowty Propellers models R354/4–123–F/13, R354/4–123–F/20, R354/4–123–F/21, R375/4–123–F/21, R389/4–123–F/25, R354/4–123–F/26, and R390/4–123–F/27 propellers, is changed in this Supplemental NPRM to Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 propellers.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require making the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the Supplemental NPRM.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 292 propellers installed on airplanes of U.S. registry. We also estimate that it would take 0.5 work-hour per propeller to visually inspect for cracks. The average labor rate is $80 per work hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $11,680.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dowty Propellers: Docket No. FAA–2008–0545; Directorate Identifier 2008–NE–16–AD.

Comments Due Date

(a) We must receive comments by June 17, 2009.

Affected Airworthiness Directives (ADs)

(b) None.

Applicability

(c) This AD applies to Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 propellers. These propellers are installed on, but not limited to, Saab AB, Saab Aerosystems SF340A and SAAB SF340B airplanes.

Reason

(d) European Aviation Safety Agency (EASA) AD No. 2008–0033, dated February 19, 2008, states:

A number of propeller blade outer sleeves have been found with cracks since 1996. Testing has shown that blade retention integrity is not affected by this cracking. However, this condition, if not detected and corrected, can lead to blade counterweight release, possibly resulting in damage to the aircraft and injury to occupants or persons on the ground.

This AD requires initial and repetitive visual inspections of propeller blade root outer sleeves for cracks, and removal before further flight of propeller blades with cracked blade root outer sleeves. We are issuing this AD to prevent blade counterweight release, which could result in injury or damage to the airplane.

Actions and Compliance

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

Propeller Blade Root Outer Sleeve Visual Inspections

(1) At the next 1,600 flight hours (FH) aircraft check after the effective date of this AD, or, after any blade accumulates 15,000 FH time-in-service, whichever occurs later, visually inspect all propeller blade root outer sleeves for cracks.

(2) Thereafter, at intervals not to exceed 1,600 FH, visually inspect all propeller blade root outer sleeves for cracks.

(3) Before further flight, remove any propeller blades found with cracked root outer sleeves during the visual inspections in paragraphs (e)(1) and (e)(2) of this AD.

FAA AD Differences

(f) None.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(h) Refer to European Aviation Safety Agency AD 2008–0033, dated February 19, 2008, and Dowty Propellers Alert Service Bulletin No. SF340–61–A106, Revision 1, dated March 20, 2008, for related information.

(i) Contact Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *terry.fahr@faa.gov*; telephone (781) 238–7155; fax (781) 238–7170, for more information about this AD.

Issued in Burlington, Massachusetts, on May 8, 2009.

Peter A. White,

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

[FR Doc. E9–11423 Filed 5–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0545; Directorate Identifier 2008–NE–16–AD]

RIN 2120–AA64

Airworthiness Directives; Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of the comment period.

SUMMARY: This supplemental NPRM revises an earlier proposed airworthiness directive (AD), applicable to Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 propellers. That proposed AD would have required initial and repetitive visual inspections of propeller blade root outer sleeves for cracks, and removal before further flight of propeller blades with cracked blade root outer sleeves. That proposed AD resulted from mandatory continuing airworthiness information (MCAI) issued by the European Aviation Safety Agency (EASA) to identify and correct an unsafe condition on certain Dowty propellers. This supplemental NPRM revises the proposed AD to correct the listing of propeller models affected. This supplemental NPRM results from the discovery that we need to correct one of the propeller model numbers affected, and to remove an erroneous propeller model number. We are proposing this AD to prevent blade counterweight release, which could result in injury or damage to the airplane. The MCAI describes the unsafe condition as:

A number of propeller blade outer sleeves have been found with cracks since 1996. Testing has shown that blade retention integrity is not affected by this cracking. However, this condition, if not detected and corrected, can lead to blade counterweight release, possibly resulting in damage to the aircraft and injury to occupants or persons on the ground.

We are proposing this AD to prevent blade counterweight release, which could result in injury or damage to the airplane.

DATES: We must receive comments on this proposed AD by June 17, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *terrance.fahr@faa.gov*; telephone (781) 238–7155; fax (781) 238–7170.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0545; Directorate Identifier 2008–NE–16–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Discussion

EASA, which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2008–0033, dated February 19, 2008, to correct an unsafe condition for the specified products. The EASA AD states:

A number of propeller blade outer sleeves have been found with cracks since 1996. Testing has shown that blade retention integrity is not affected by this cracking. However, this condition, if not detected and corrected, can lead to blade counterweight release, possibly resulting in damage to the

aircraft and injury to occupants or persons on the ground.

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

Relevant Service Information

Dowty Propellers has issued Alert Service Bulletin No. SF340–61–A106, Revision 1, dated March 20, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom, and is approved for operation in the United States. Pursuant to our bilateral agreement with the United Kingdom, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This Supplemental NPRM requires initial and repetitive visual inspections of propeller blade root outer sleeves for cracks, and removal before further flight of propeller blades with cracked blade root outer sleeves.

Comments

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

Request To Reference the Latest Service Bulletin

One commenter, Colgan Air, requests that we reference the latest service bulletin, which is Dowty Propellers Alert Service Bulletin No. SF340–61–A106, Revision 1, dated March 20, 2008.

We agree and changed that reference in this Supplemental NPRM.

Request To Clarify Airplane Manufacturer

One commenter, SAAB AB, SAAB Aerosystems, requests that we clarify that ''340B airplanes'' should be referred to as ''SAAB 340B airplanes''.

We agree and clarified that reference in this Supplemental NPRM.

Need To Correct the Listing of Propeller Models Affected

We discovered the need to correct the listing of the propeller models affected that was included in the original NPRM published in the **Federal Register** on June 30, 2008 (73 FR 36819). That listing, which is Dowty Propellers models R354/4–123–F/13, R354/4–123–F/20, R354/4–123–F/21, R375/4–123–F/21, R389/4–123–F/25, R354/4–123–F/26, and R390/4–123–F/27 propellers, is changed in this Supplemental NPRM to Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 propellers.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require making the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the Supplemental NPRM.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 292 propellers installed on airplanes of U.S. registry. We also estimate that it would take 0.5 work-hour per propeller to visually inspect for cracks. The average labor rate is $80 per work hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $11,680.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dowty Propellers: Docket No. FAA–2008–0545; Directorate Identifier 2008–NE–16–AD.

Comments Due Date

(a) We must receive comments by June 17, 2009.

Affected Airworthiness Directives (ADs)

(b) None.

Applicability

(c) This AD applies to Dowty Propellers Models R354/4–123–F/13, R354/4–123–F/20, R375/4–123–F/21, R389/4–123–F/25, R389/4–123–F/26, and R390/4–123–F/27 propellers. These propellers are installed on, but not limited to, Saab AB, Saab Aerosystems SF340A and SAAB SF340B airplanes.

Reason

(d) European Aviation Safety Agency (EASA) AD No. 2008–0033, dated February 19, 2008, states:

A number of propeller blade outer sleeves have been found with cracks since 1996. Testing has shown that blade retention integrity is not affected by this cracking. However, this condition, if not detected and corrected, can lead to blade counterweight release, possibly resulting in damage to the aircraft and injury to occupants or persons on the ground.

This AD requires initial and repetitive visual inspections of propeller blade root outer sleeves for cracks, and removal before further flight of propeller blades with cracked blade root outer sleeves. We are issuing this AD to prevent blade counterweight release, which could result in injury or damage to the airplane.

Actions and Compliance

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

Propeller Blade Root Outer Sleeve Visual Inspections

(1) At the next 1,600 flight hours (FH) aircraft check after the effective date of this AD, or, after any blade accumulates 15,000 FH time-in-service, whichever occurs later, visually inspect all propeller blade root outer sleeves for cracks.

(2) Thereafter, at intervals not to exceed 1,600 FH, visually inspect all propeller blade root outer sleeves for cracks.

(3) Before further flight, remove any propeller blades found with cracked root outer sleeves during the visual inspections in paragraphs (e)(1) and (e)(2) of this AD.

FAA AD Differences

(f) None.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(h) Refer to European Aviation Safety Agency AD 2008–0033, dated February 19, 2008, and Dowty Propellers Alert Service Bulletin No. SF340–61–A106, Revision 1, dated March 20, 2008, for related information.

(i) Contact Terry Fahr, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *terry.fahr@faa.gov;* telephone (781) 238–7155; fax (781) 238–7170, for more information about this AD.

Issued in Burlington, Massachusetts, on May 8, 2009.

Peter A. White,

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

[FR Doc. E9–11478 Filed 5–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 101

[Docket No. USCBP–2008–0047]

Extension of Port Limits of Columbus, OH

AGENCY: Customs and Border Protection, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking proposes to extend the geographical limits of the port of Columbus, Ohio, to include the Rickenbacker Intermodal Terminal and additional territory that likely will be needed for supporting infrastructure so that it will be within the newly defined port limits. The proposed change would make the boundaries more easily identifiable to the public. The proposed change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before July 17, 2009.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2008–0047.
- *Mail:* Border Security Regulations Branch, Office of International Trade, Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Wendy M. Cooper, Office of Field Operations, 202–344–2057.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the notice of proposed rulemaking. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposal. Comments that will provide the most assistance to the Department in developing these procedures will reference a specific portion of the proposal, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

II. Background

As part of its continuing efforts to provide better service to carriers, importers, and the general public, CBP is proposing to extend the port boundaries for the port of entry at Columbus, Ohio.

The Columbus Regional Airport Authority has partnered with the Norfolk Southern Corporation to create an intermodal facility immediately adjacent to Rickenbacker International Airport. The creation of the new Rickenbacker Intermodal Terminal is an important part of the Columbus Regional Airport Authority's plan to address a capacity problem at current facilities in the area. The terminal is located to the south of the current port boundaries. In order to accommodate the new facility and the necessary additional territory for supporting infrastructure so that it falls within the newly defined port limits, CBP is proposing to amend the port limits of the port of Columbus, Ohio. This proposed change will make the port boundaries more easily identifiable to the public. CBP has determined that this proposed change will result in better service that is provided to the public by the port by addressing a capacity problem at current facilities in the area. The proposed change will not require a change in the staffing or workload at the port.

III. Current Port Limits of Columbus, Ohio

The current port limits of Columbus, Ohio, are contained in two separate Treasury Decisions: 82–9 and 96–67.

Treasury Decision (T.D.) 82–9, published in the **Federal Register** (47 FR 1286) on January 12, 1982, specified the limits as follows:

The geographical boundaries of the Columbus, Ohio, Customs port of entry include all of the territory within the corporate limits of Columbus, Ohio; all of the territory completely surrounded by the city of Columbus; and, all of the territory enclosed by Interstate Highway 270 (outer belt), which completely surrounds the city.

T.D. 96–67, published in the **Federal Register** (61 FR 49058) on September 18, 1996, expanded the port limits of Columbus, Ohio, to encompass the port limits set forth in T.D. 82–9 as well as the following territory:

Beginning at the intersection of Rohr and Lockbourne Roads, then proceeding southerly along Lockbourne Road to Commerce Street, thence easterly along Commerce Street to its intersection with the N & W railroad tracks, then southerly along the N & W railroad tracks to the Franklin-Pickaway County line, thence easterly along the Franklin-Pickaway County line to its intersection with Pontius Road, then northerly along Pontius Road to its intersection with Rohr Road, thence westerly along Rohr Road to its intersection with Lockbourne Road, the point of beginning, all within the County of Franklin, State of Ohio.

IV. Proposed Port Limits of Columbus, Ohio

The new port limits of Columbus, Ohio, are proposed as follows:

The geographic boundaries of the Columbus, Ohio, port of entry include all of Franklin County, and that part of Pickaway County east of U.S. Route 23 and north of State Route 752, all in the State of Ohio.

V. Proposed Amendment to the Regulations

If the proposed port limits are adopted, CBP will amend the list of CBP ports of entry at 19 CFR 101.3(b)(1), to reflect the new description of the limits of the Columbus, Ohio, port of entry.

V. Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624, and the Homeland Security Act of 2002, Public Law 107–296 (November 25, 2002).

VI. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because this port extension is not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, the notice of proposed rulemaking may be signed by the Secretary of Homeland Security (or his or her delegate).

VII. Statutory and Regulatory Reviews.

A. Executive Order 12866: Regulatory Planning and Review

This proposed rule is not considered to be an economically significant regulatory action under Executive Order 12866 because it will not result in the expenditure of over $100 million in any one year. The proposed change is intended to expand the geographical boundaries of the Port of Columbus, Ohio, and make it more easily identifiable to the public. There are no new costs to the public associated with this rule. Accordingly, this proposed rule has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act), a small not-for-profit organization, or a small governmental jurisdiction (locality with fewer than 50,000 people).

This proposed rule does not directly regulate small entities. The proposed change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. To the extent that all entities are able to more efficiently or conveniently access the facilities and resources within the proposed expanded geographical area of the new port limits, this proposed rule, if finalized, should confer benefits to CBP, carriers, importers, and the general public.

Because this rule does not directly regulate small entities, we do not believe that this rule has a significant economic impact on a substantial number of small entities. However, we welcome comments on that assumption. The most helpful comments are those that can give us specific information or examples of a direct impact on small entities. If we do not receive comments that demonstrate that the rule causes small entities to incur direct costs, we may certify that this action does not have a significant economic impact on a substantial number of small entities during the final rule.

Dated: May 12, 2009.

Janet Napolitano,

Secretary.

[FR Doc. E9–11551 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–115699–09]

RIN:1545–BI64

Suspension or Reduction of Safe Harbor Nonelective Contributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments to the regulations relating to certain cash or deferred arrangements and matching contributions under section 401(k) plans and section 403(b) plans. These regulations affect administrators of, employers maintaining, participants in, and beneficiaries of certain section 401(k) plans and section 403(b) plans.

DATES: Written or electronic comments must be received by August 17, 2009. Outlines of the topics to be discussed at the public hearing scheduled for Wednesday, September 23, 2009, at 10 a.m. must be received by August 19, 2009.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–115699–09), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–115699–09), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–115699–09).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, R. Lisa Mojiri-Azad, Dana Barry or William D. Gibbs at (202) 622–6060; concerning the submission of comments or to request a public hearing, *Richard.A.Hurst@irscounsel.treas.gov,* (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP; Washington, DC 20224. Comments on the collection of information should be received by July 17, 2009. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in these proposed regulations is in § 1.401(k)–3. The collection relates to the new supplemental notice in the case of a reduction or suspension of safe harbor nonelective contributions. The likely recordkeepers are businesses or other for-profit institutions, nonprofit institutions, organizations, and state or local governments.

Estimated total average annual recordkeeping burden: 5,000 hours.

Estimated average annual burden hours per recordkeeper: 1 hour.

Estimated number of recordkeepers: 5,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed amendments to regulations under sections 401(k) and 401(m) of the Internal Revenue Code.

Section 401(k)(1) provides that a profit-sharing, stock bonus, pre-ERISA money purchase, or rural cooperative plan will not fail to qualify under section 401(a) merely because it contains a qualified cash or deferred arrangement. Section 1.401(k)–1(a)(2) defines a cash or deferred arrangement (CODA) as an arrangement under which an eligible employee may make a cash or deferred election with respect to contributions to, or accruals or other benefits under, a plan that is intended to satisfy the requirements of section 401(a). Contributions that are made pursuant to a cash or deferred election under a qualified CODA are commonly referred to as elective contributions.

In order for a CODA to be a qualified CODA, it must satisfy a number of requirements. For example, contributions under the CODA must satisfy either the nondiscrimination test set forth in section 401(k)(3), called the actual deferral percentage (ADP) test, or one of the design-based alternatives in section 401(k)(11), 401(k)(12), or 401(k)(13). Under the ADP test, the average percentage of compensation deferred for eligible highly compensated employees (HCEs) is compared to the average percentage of compensation deferred for eligible nonhighly compensated employees (NHCEs), and if certain deferral percentage limits are exceeded with respect to HCEs, corrective action must be taken.

Section 401(k)(12) provides a design-based safe harbor method under which a CODA is treated as satisfying the ADP test if the arrangement meets certain contribution and notice requirements. A plan satisfies this safe harbor method if the employer makes specified qualified matching contributions (QMACs) for all eligible NHCEs. The employer can make QMACs under a basic matching formula that provides for QMACs on behalf of each eligible NHCE equal to 100% of the employee's elective contributions that do not exceed 3% of compensation and 50% of the employee's elective contributions that exceed 3% but do not exceed 5% of compensation. Alternatively, the employer can make QMACs under an enhanced matching formula that provides, at each rate of elective contributions, for an aggregate amount of QMACs that is at least as generous as under the basic matching formula, but only if the rate of QMACs under the enhanced matching formula does not increase as the employee's rate of elective contributions increases. In lieu of QMACs, the plan is permitted to provide qualified nonelective contributions (QNECs) equal to 3% of compensation for all eligible NHCEs. In addition, notice must be provided to each eligible employee, within a reasonable period before the beginning of the plan year, of the employee's rights and obligations under the plan.

Section 401(k)(13), as added by section 902 of the Pension Protection Act of 2006, Public Law 109–280 (PPA '06), provides an alternative design-based safe harbor for a CODA that provides for automatic contributions at a specified level and meets certain employer contribution and notice requirements. Similar to the design-based safe harbor under section 401(k)(12), section 401(k)(13) provides a choice for an employer between satisfying a matching contribution requirement or a nonelective contribution requirement. Under the matching contribution requirement, the employer can make matching contributions under a basic matching formula that provides for matching contributions on behalf of each eligible NHCE equal to 100% of the employee's elective contributions that do not exceed 1% of compensation and 50% of the employee's elective contributions that exceed 1% but do not exceed 6% of compensation. Alternatively, the employer can make matching contributions under an enhanced matching formula that provides, at each rate of elective contributions, for an aggregate amount of matching contributions that is at least as generous as under the basic matching formula at such rate, but only if the rate of matching contributions under the enhanced matching formula does not increase as the employee's rate of elective contributions increases. In addition, the plan must satisfy a notice requirement under section 401(k)(13) that is similar to the notice requirement under section 401(k)(12).

Except as discussed elsewhere in this preamble, a plan that uses one of these safe harbor methods under section 401(k)(12) or (13) must specify, before the beginning of the plan year, whether the safe harbor contribution will be the safe harbor nonelective contribution or the safe harbor matching contribution and is not permitted to provide that ADP testing will be used if the requirements for the safe harbor are not satisfied.

Section 401(m) sets forth a nondiscrimination requirement that applies to a plan providing for matching contributions or employee contributions. Such a plan must satisfy either the nondiscrimination test set forth in section 401(m)(2), called the actual contribution percentage (ACP) test, or one of the design-based alternatives in section 401(m)(10), 401(m)(11), or 401(m)(12). The ACP test in section 401(m)(2) is comparable to the ADP test in section 401(k)(3).

Under section 401(m)(11), a defined contribution plan is treated as satisfying the ACP test with respect to matching contributions if the plan satisfies the ADP safe harbor of section 401(k)(12) and certain other requirements are satisfied. Similarly, under section 401(m)(12), as added by section 902 of PPA '06, a defined contribution plan that provides for automatic contributions at a specified level is treated as meeting the ACP test with respect to matching contributions if the plan satisfies the ADP safe harbor of section 401(k)(13) and certain other requirements are satisfied.

Section 403(b) provides favorable tax treatment for the purchase of annuity contracts that satisfy certain requirements. Pursuant to sections 403(b)(1)(D) and 403(b)(12)(A)(i), the purchase of an annuity contract (other than a purchase by a church) is eligible for this favorable tax treatment only if it is part of a plan that meets the requirements of section 401(m), as if it were a qualified plan under section 401(a).

Final regulations under sections 401(k) and 401(m) were published on December 29, 2004. Sections 1.401(k)–3 and 1.401(m)–3 set forth the requirements for a safe harbor plan under sections 401(k)(12) and 401(m)(11), respectively. On February 24, 2009, these regulations were amended to reflect sections 401(k)(13) and 401(m)(12) (74 FR 8200).

Sections 1.401(k)–3(e)(1) and 1.401(m)–3(f)(1) provide that subject to certain exceptions, a safe harbor plan must be adopted before the beginning of the plan year and be maintained throughout a full 12-month plan year. Accordingly, if, at the beginning of the plan year, a plan contains an allocation formula that includes safe harbor matching or safe harbor nonelective contributions, then the plan may not be amended to revert to ADP or ACP testing for the plan year (except to the extent permitted under §§ 1.401(k)–3 and 1.401(m)–3).

Sections 1.401(k)–3(f) and 1.401(m)–3(g) permit a plan that provides for the use of the current year ADP or ACP testing method to be amended after the first day of the plan year to adopt the safe harbor method under § 1.401(k)–3 or § 1.401(m)–3 using safe harbor nonelective contributions, effective as of the first day of the plan year, if certain requirements are satisfied. In particular, the amendment must be adopted no later than 30 days before the last day of the plan year, and the plan must satisfy specified contingent and follow-up notice requirements. Under §§ 1.401(k)–3(f) and 1.401(m)–3(g), a plan satisfies the contingent notice requirement if the notice is provided before the plan year and specifies that the plan may be amended during the plan year to include the safe harbor nonelective contribution and that, if the plan is amended, a follow-up notice will be provided. A plan satisfies the follow-up notice requirement if, no later than 30 days before the last day of the plan year, each eligible employee is given a notice that states that the safe harbor nonelective contributions will be made for the plan year.

A plan that provides for safe harbor matching contributions will not fail to satisfy section 401(k)(3) or section 401(m)(2) for a plan year merely because the plan is amended during the plan year to reduce or suspend safe harbor matching contributions on future elective contributions, as long as the requirements under § 1.401(k)–3(g) or § 1.401(m)–3(h) are met. Under these regulations: a notice must be provided to all eligible employees regarding the reduction or suspension of safe harbor matching contributions; the reduction or suspension of safe harbor matching contributions must be effective no earlier than the later of 30 days after eligible employees are provided the notice and the date the amendment is adopted; eligible employees must be given a reasonable opportunity prior to the reduction or suspension of safe harbor matching contributions to change their cash or deferred elections and, if applicable, their employee contribution elections; the plan must be amended to provide that the applicable nondiscrimination tests will be satisfied for the entire plan year; and the plan must satisfy the requirements of §§ 1.401(k)–3 and 1.401(m)–3 (other than §§ 1.401(k)–3(g) and 1.401(m)–3(h)) with respect to amounts deferred through the effective date of the amendment.

Sections 1.401(k)–3(e)(4) and 1.401(m)–3(f)(4) provide that, if a plan terminates during a plan year, the plan will not fail to satisfy the requirements of §§ 1.401(k)–3(e)(1) and 1.401(m)–3(f)(1) merely because the final plan year is less than 12 months, provided that the plan satisfies the requirements of §§ 1.401(k)–3 and 1.401(m)–3 through the date of termination and either (1) the plan would have satisfied the requirements applicable to a plan amendment to reduce or suspend safe harbor matching contributions (other than the requirement that employees have a reasonable opportunity to change their cash or deferred elections and, if applicable, employee contribution elections) or (2) the termination is in connection with a transaction described in section 410(b)(6)(C) or the employer incurs a substantial business hardship (comparable to a substantial business hardship described in section 412(d) [1]).

Section 416 sets forth the rules for top-heavy plans. Section 416(g)(4)(H) provides that a top-heavy plan will not include a plan which consists solely of a cash or deferred arrangement that meets the requirements of section 401(k)(12) or 401(k)(13) and matching contributions with respect to which the requirements of section 401(m)(11) or 401(m)(12) are met.

Explanation of Provisions

The proposed regulations would amend §§ 1.401(k)–3 and 1.401(m)–3 to permit an employer sponsoring a safe harbor plan described in section 401(k)(12) or 401(k)(13) that incurs a substantial business hardship (comparable to a substantial business hardship described in section 412(c)) to reduce or suspend safe harbor nonelective contributions during a plan year. These proposed regulations would provide an employer an alternative to the option of terminating the employer's safe harbor plan in such a situation.

The proposed regulations would allow for the reduction or suspension of safe harbor nonelective contributions under rules generally comparable to the provisions relating to the reduction or suspension of safe harbor matching contributions. Under these rules, a plan that reduces or suspends safe harbor nonelective contributions will not fail to satisfy section 401(k)(3), provided that: (1) All eligible employees are provided a supplemental notice of the reduction or suspension; (2) the reduction or suspension of safe harbor nonelective contributions is effective no earlier than the later of 30 days after eligible employees are provided the supplemental notice and the date the amendment is adopted; (3) eligible employees are given a reasonable opportunity (including a reasonable

[1] The definition of substantial business hardship in section 412(d) was relocated to become part of section 412(c) by section 111 of the Pension Protection Act of 2006, Public Law 109–280.

period after receipt of the supplemental notice) prior to the reduction or suspension of the safe harbor nonelective contributions to change their cash or deferred elections and, if applicable, their employee contribution elections; (4) the plan is amended to provide that the ADP test will be satisfied for the entire plan year in which the reduction or suspension occurs, using the current year testing method; and (5) the plan satisfies the safe harbor nonelective contribution requirement with respect to safe harbor compensation paid through the effective date of the amendment. The proposed regulations would also provide that the supplemental notice requirement is satisfied if each eligible employee is given a notice that explains: (1) The consequences of the amendment reducing or suspending future safe harbor nonelective contributions; (2) the procedures for changing cash or deferred elections and, if applicable, employee contribution elections; and (3) the effective date of the amendment.

The proposed regulations would further provide that these same rules that apply to safe harbor plans under § 1.401(k)–3 also apply to safe harbor plans under § 1.401(m)–3, except that the plan must be amended to provide that the ACP test will be satisfied for the entire plan year in which the reduction or suspension occurs using the current year testing method.

Because the reduction or suspension of safe harbor contributions can be effective no earlier than the later of 30 days after the notice is provided to all eligible employees and the date the amendment is adopted, an employer that wants to reduce or suspend safe harbor contributions during a year could not implement this change by adopting the amendment at the end of the plan year. In addition, a plan that is amended during the plan year to reduce or suspend safe harbor contributions (whether nonelective contributions or matching contributions) must prorate the otherwise applicable compensation limit under section 401(a)(17) in accordance with the requirements of § 1.401(a)(17)–1(b)(3)(iii)(A). Furthermore, a plan that is amended to reduce or suspend safe harbor contributions is no longer a plan described in section 401(k)(12), 401(k)(13), 401(m)(11), or 401(m)(12) for the entire plan year. Accordingly, such a plan is not described in section 416(g)(4)(H) and, thus, will be subject to the top-heavy rules under section 416.

Proposed Effective Date

These regulations are proposed to be effective for amendments adopted after May 18, 2009. Taxpayers may rely on these proposed regulations for guidance pending the issuance of final regulations. If, and to the extent, the final regulations are more restrictive than the guidance in these proposed regulations, those provisions of the final regulations will be applied without retroactive effect.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has been determined that 5 U.S.C. 533(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these proposed regulations will not have a significant economic impact on a substantial number of small entities. The proposed regulations impact on small businesses is as follows. A pension consultant or attorney must read the regulation. He must then communicate this information to the small business owner. The small business owner must then decide if he wants to reduce nonelective contributions to its safe harbor plan. Once this decision is made, the pension consultant or attorney must draft the notice to employees and the small business must make sure that the employees receive the notice.

We estimate that the cost to do these tasks is $500–$1000. If the small business owner can implement this program by July 1, 2009, he will save 1.5% of his payroll for 2009. A small business with an annual payroll of $1,000,000 can save $15,000 in 2009. Thus, adopting the provisions in these regulation will in almost all cases save the small business owner money. Therefore, an analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (one signed and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rules and how they can be made easier to understand.

The current regulations, in describing the requirement for safe harbor plans that a notice be provided before the beginning of the plan year, do not address the possibility that safe harbor contributions may be reduced or suspended during the year. Since, under these regulations, safe harbor nonelective contributions, as well as safe harbor matching contributions, can be reduced or suspended during the plan year under certain circumstances, the IRS and Treasury are considering adding to the minimum content listing in § 1.401(k)–3(d)(2)(ii), a requirement that the possibility of reduced or suspended safe harbor contributions be described in the notice required to be provided before the beginning of the plan year (except in the case of a contingent notice described in § 1.401(k)–3(f)). If adopted, the requirement that the notice describe the possibility of reduced or suspended safe harbor contributions would not apply for plan years beginning before January 1, 2010. The IRS and Treasury specifically request comments on whether the additional content requirement should be added to the regulations.

A public hearing has been scheduled for September 23, 2009, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

Persons who wish to present oral comments at the hearing must submit written or electronic comments and submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (a signed original and eight (8) copies) by August 19, 2009. A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Dana Barry, William Gibbs, and Lisa Mojiri-Azad, Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended to read as follows:

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

Section 1.401(k)–3 is also issued under 26 U.S.C. 401(m)(9).

Par. 2. Section 1.401(k)–0 is amended by revising the entries for § 1.401(k)–3(g), (g)(1) and (g)(2) to read as follows:

§ 1.401(k)–0 Table of Contents.

* * * * *

§ 1.401(k)–3 Safe harbor requirements.

* * * * *

(g) Permissible reduction or suspension of safe harbor contributions.

(1) General rule.

(i) Matching contributions.

(ii) Nonelective contributions.

(2) Supplemental notice.

* * * * *

Par. 3. Section 1.401(k)–3 is amended by:

1. Revising paragraph (e)(4)(ii).

2. Revising paragraph (g).

The revisions read as follows:

§ 1.401(k)–3 Safe harbor requirements.

* * * * *

(e) * * *

(4) * * *

(ii) The plan termination is in connection with a transaction described in section 410(b)(6)(C) or the employer incurs a substantial business hardship comparable to a substantial business hardship described in section 412(c).

* * * * *

(g) *Permissible reduction or suspension of safe harbor contributions*—(1) *General rule*—(i) *Matching contributions.* A plan that provides for safe harbor matching contributions intended to satisfy the requirements of paragraph (c) of this section for a plan year will not fail to satisfy the requirements of section 401(k)(3) merely because the plan is amended during the plan year to reduce or suspend safe harbor matching contributions on future elective contributions (and, if applicable, employee contributions) provided that—

(A) All eligible employees are provided the supplemental notice in accordance with paragraph (g)(2) of this section;

(B) The reduction or suspension of safe harbor matching contributions is effective no earlier than the later of 30 days after eligible employees are provided the supplemental notice described in paragraph (g)(2) of this section and the date the amendment is adopted;

(C) Eligible employees are given a reasonable opportunity (including a reasonable period after receipt of the supplemental notice) prior to the reduction or suspension of safe harbor matching contributions to change their cash or deferred elections and, if applicable, their employee contribution elections;

(D) The plan is amended to provide that the ADP test will be satisfied for the entire plan year in which the reduction or suspension occurs using the current year testing method described in § 1.401(k)–2(a)(2)(ii); and

(E) The plan satisfies the requirements of this section (other than this paragraph (g)) with respect to amounts deferred through the effective date of the amendment.

(ii) *Nonelective contributions.* A plan that provides for safe harbor nonelective contributions intended to satisfy the requirements of paragraph (b) of this section for the plan year will not fail to satisfy the requirements of section 401(k)(3) merely because the plan is amended during the plan year to reduce or suspend safe harbor nonelective contributions provided that—

(A) The employer incurs a substantial business hardship (comparable to a substantial business hardship described in section 412(c));

(B) The amendment is adopted after May 18, 2009;

(C) All eligible employees are provided the supplemental notice in accordance with paragraph (g)(2) of this section;

(D) The reduction or suspension of safe harbor nonelective contributions is effective no earlier than the later of 30 days after eligible employees are provided the supplemental notice described in paragraph (g)(2) of this section and the date the amendment is adopted;

(E) Eligible employees are given a reasonable opportunity (including a reasonable period after receipt of the supplemental notice) prior to the reduction or suspension of nonelective contributions to change their cash or deferred elections and, if applicable, their employee contribution elections;

(F) The plan is amended to provide that the ADP test will be satisfied for the entire plan year in which the reduction or suspension occurs using the current year testing method described in § 1.401(k)–2(a)(2)(ii); and

(G) The plan satisfies the requirements of this section (other than this paragraph (g)) with respect to safe harbor compensation paid through the effective date of the amendment.

(2) *Supplemental notice.* The supplemental notice requirement of this paragraph (g)(2) is satisfied if each eligible employee is given a notice (in writing or such other form as prescribed by the Commissioner) that explains—

(i) The consequences of the amendment which reduces or suspends future safe harbor contributions;

(ii) The procedures for changing their cash or deferred elections and, if applicable, their employee contribution elections; and

(iii) The effective date of the amendment.

Par. 4. Section 1.401(m)–0 is amended by revising the entries for § 1.401(m)–3(h), (h)(1) and (h)(2) in their entirety to read as follows:

§ 1.401(m)–0 Table of Contents.

* * * * *

§ 1.401(m)–3 Safe Harbor Requirements.

* * * * *

(h) Permissible reduction or suspension of safe harbor contributions.

(1) General rule.

(i) Matching contributions.

(ii) Nonelective contributions.

(2) Supplemental notice.

* * * * *

Par. 5. Section 1.401(m)–3 is amended by:

1. Revising paragraph (f)(4)(ii).

2. Revising paragraph (h).

The revisions read as follows:

§ 1.401(m)–3 Safe harbor requirements.

* * * * *

(f) * * *

(4) * * *

(ii) The plan termination is in connection with a transaction described in section 410(b)(6)(C) or the employer incurs a substantial business hardship, comparable to a substantial business hardship described in section 412(c).

* * * * *

(h) *Permissible reduction or suspension of safe harbor contributions*—(1) *General rule*—(i) *Matching contributions.* A plan that provides for safe harbor matching

contributions intended to satisfy the requirements of paragraph (c) of this section for a plan year will not fail to satisfy the requirements of section 401(m)(2) merely because the plan is amended during the plan year to reduce or suspend safe harbor matching contributions on future elective deferrals and, if applicable, employee contributions provided that—

(A) All eligible employees are provided the supplemental notice in accordance with paragraph (h)(2) of this section;

(B) The reduction or suspension of safe harbor matching contributions is effective no earlier than the later of 30 days after eligible employees are provided the supplemental notice described in paragraph (h)(2) of this section and the date the amendment is adopted;

(C) Eligible employees are given a reasonable opportunity (including a reasonable period after receipt of the supplemental notice) prior to the reduction or suspension of safe harbor matching contributions to change their cash or deferred elections and, if applicable, their employee contribution elections;

(D) The plan is amended to provide that the ACP test will be satisfied for the entire plan year in which the reduction or suspension occurs using the current year testing method described in § 1.401(m)–2(a)(2)(ii); and

(E) The plan satisfies the requirements of this section (other than this paragraph (h)) with respect to amounts deferred through the effective date of the amendment.

(ii) *Nonelective contributions.* A plan that provides for safe harbor nonelective contributions intended to satisfy the requirements of paragraph (b) of this section will not fail to satisfy the requirements of section 401(m)(2) for the plan year merely because the plan is amended during the plan year to reduce or suspend safe harbor nonelective contributions provided that—

(A) The employer incurs a substantial business hardship (comparable to a substantial business hardship described in section 412(c));

(B) The amendment is adopted after May 18, 2009;

(C) All eligible employees are provided the supplemental notice in accordance with paragraph (h)(2) of this section;

(D) The reduction or suspension of safe harbor nonelective contributions is effective no earlier than the later of 30 days after eligible employees are provided the supplemental notice described in paragraph (h)(2) of this section and the date the amendment is adopted;

(E) Eligible employees are given a reasonable opportunity (including a reasonable period after receipt of the supplemental notice) prior to the reduction or suspension of nonelective contributions to change their cash or deferred elections and, if applicable, their employee contribution elections;

(F) The plan is amended to provide that the ACP test will be satisfied for the entire plan year in which the reduction or suspension occurs using the current year testing method described in § 1.401(m)–2(a)(2)(ii); and

(G) The plan satisfies the requirements of this section (other than this paragraph (h)) with respect to safe harbor compensation paid through the effective date of the amendment.

(2) *Supplemental notice.* The supplemental notice requirement of this paragraph (h)(2) is satisfied if each eligible employee is given a notice that satisfies the requirements of § 1.401(k)–3(g)(2).

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E9–11481 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–1017]

RIN 1625–AA11

Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington

AGENCY: Coast Guard, DHS.

ACTION: Notice of third public meeting; request for comments.

SUMMARY: In response to requests received, the Coast Guard announces a third public meeting, to be held on June 2, 2009, to receive comments on the notice of proposed rulemaking entitled ''Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington'' that was published in the **Federal Register** on February 12, 2009 (74 FR 7022).

As stated in the notice of proposed rulemaking, the Coast Guard proposes to establish Regulated Navigation Areas (RNA) covering specific bars along the coasts of Oregon and Washington that will include procedures for restricting and/or closing those bars as well as additional safety requirements for recreational and small commercial vessels operating in the RNAs. The RNAs are necessary to help ensure the safety of the persons and vessels operating in those hazardous bar areas. The RNAs will do so by establishing clear procedures for restricting and/or closing the bars and mandating additional safety requirements for recreational and small commercial vessels operating in the RNAs when certain conditions exist.

DATES: The public meeting for the proposed rule will be held in Coos Bay, Oregon, on Tuesday, June 2, 2009, from 6 p.m. to 9 p.m. in order to provide an opportunity for oral comments. Written comments and related material may also be submitted to Coast Guard personnel specified at that meeting.

The comment period for the proposed rule will close on June 30, 2009. All comments and related material must be received by the Coast Guard on or before June 30, 2009.

ADDRESSES: The public meeting in Coos Bay, OR will be held at The Red Lion Hotel, 1313 N. Bayshore Drive, Coos Bay, OR 97420, telephone 541–267–4141.

You may submit written comments identified by docket number USCG–2008–1017 before or after the meeting using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

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

To avoid duplication, please use only one of these four methods. Our online docket for this rulemaking is available on the Internet at *http://www.regulations.gov* under docket number USCG–2008–1017.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the meeting or the proposed rule, please call or e-mail LCDR Emily Saddler, Thirteenth Coast Guard District, Prevention Division, Inspections and Investigations Branch; telephone 206–220–7210, e-mail *Emily.C.Saddler@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Renee V.

Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

We published a notice of proposed rulemaking (NPRM) in the **Federal Register** on February 12, 2009 (74 FR 7022), entitled ''Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington.'' In it we stated that we did not plan to hold a public meeting, but that we welcomed requests explaining why one would be beneficial (74 FR 7023). We received several such requests and have already held two public meetings in Astoria and Newport, Oregon (74 FR 16814, Apr. 13, 2009). Due to several requests for a meeting in southern Oregon we have concluded that a third public meeting would aid this rulemaking. Therefore, we are publishing this notice.

In the NPRM, we proposed to establish Regulated Navigation Areas (RNA) covering specific bars along the coasts of Oregon and Washington that will include procedures for restricting and/or closing those bars as well as additional safety requirements for recreational and small commercial vessels operating in the RNAs. The RNAs are necessary to help ensure the safety of the persons and vessels operating in those hazardous bar areas. The RNAs will do so by establishing clear procedures for restricting and/or closing the bars and mandating additional safety requirements for recreational and small commercial vessels operating in the RNAs when certain conditions exist. On May 8, 2009 (74 FR 21564), we published a notice reopening the public comment period to June 30, 2009.

You may view the NPRM in our online docket, in addition to supporting documents prepared by the Coast Guard, including an ''Environmental Analysis Checklist'', RNA Fact Sheets for recreational, passenger, and commercial fishing vessels, and comments submitted thus far by going to *http://www.regulations.gov.* Once there, select the Advanced Docket Search option on the right side of the screen, insert USCG–2008–1017 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the Thirteenth Coast Guard District, Prevention Division, Inspections and Investigations Branch in Room 3506 on the 35th floor of the Jackson Federal Building, 915 Second Avenue, Seattle, WA 98174, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

We encourage you to participate in this rulemaking by submitting comments either orally at the meeting or in writing. If you bring written comments to the meeting, you may submit them to Coast Guard personnel specified at the meeting to receive written comments. These comments will be submitted to the online public docket. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Comments submitted after the meeting must reach the Coast Guard on or before June 30, 2009. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility.

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

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact LCDR Emily Saddler at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Public Meeting

The Coast Guard will hold a public meeting regarding its ''Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington'' proposed rule on Tuesday, June 2, 2009, from 6 p.m. to 9 p.m., at The Red Lion Hotel, 1313 N. Bayshore Drive, Coos Bay, OR 97420, telephone 541–267–4141.

We plan to have an official transcript of the meeting prepared and will make that transcript available through a link in the online docket.

Dated: May 7, 2009.

J.P. Currier,

Rear Admiral, U.S. Coast Guard, Commander, Thirteenth Coast Guard District.

[FR Doc. E9–11564 Filed 5–15–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–B–1040]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before August 17, 2009.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community are available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1040, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151, or (e-mail) *bill.blanton@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Chief,

Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151 or (e-mail) *bill.blanton@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

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

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

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)	
				Existing	Modified
City of Burnside, Kentucky					
Kentucky	City of Burnside	Lake Cumberland	Entire shoreline	None	+749

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Burnside

Maps are available for inspection at 7929 South Highway 27, Burnside, KY 42519.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Fairfield County, Connecticut, and Incorporated Areas				
East Swamp Brook	Entire reach within City of Danbury	None	+293	City of Danbury.
Farmill River	Entire reach within Town of Stratford	None	+14	Town of Stratford.
	Entire reach within Town of Stratford	None	+70	
Five Mile River	At upstream side of Old Rock Lane	+141	+139	City of Norwalk.
	Approximately 750 feet upstream of Old Rock Lane	+142	+139	
Horse Tavern Brook	At upstream side of Park Avenue	+129	+132	City of Bridgeport.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 670 feet upstream of Park Avenue	+131	+132	
	Approximately 1,580 feet upstream of Old Town Road	None	+239	
	Approximately 1,820 feet upstream of Old Town Road	None	+240	
Horse Tavern Brook	Approximately 470 feet upstream of Old Town Road ..	+236	+238	Town of Trumbull.
	Approximately 1,070 feet upstream of Old Town Road	+238	+239	
Housatonic River	Approximately 2,775 feet upstream of Merritt Parkway	+13	+14	Town of Stratford.
	Approximately 3,650 feet upstream of Merritt Parkway	+13	+14	
Housatonic River	At confluence of Halfway River	None	+108	Town of Newtown.
	Approximately 15,800 feet upstream of confluence of Halfway River.	None	+108	
Laurel Brook	Approximately 320 feet upstream of confluence with Rippowam River (Upper Reach).	+244	+245	City of Stamford.
	Approximately 40 feet upstream of Laurel Road	+279	+274	
Mianus River	At upstream side of Valley Road	+72	+73	Town of Greenwich.
	Approximately 270 feet upstream of Valley Road	+72	+73	
Noroton River	Approximately 1,860 feet downstream of State Route 15.	None	+117	Town of Darien, City of Stamford.
	Approximately 1,040 feet downstream of State Route 15.	None	+117	
Norwalk River	Entire reach within Town of Weston	None	+302	Town of Weston.
Norwalk River	Approximately 2,740 feet upstream of U.S. Route 7 ...	None	+367	Town of Ridgefield.
	Approximately 3,500 feet upstream of U.S. Route 7 ...	None	+373	
Rippowam River (Upper Reach).	Approximately 290 feet downstream of Cascade Road	+227	+228	Town of New Canaan.
	Approximately 3,360 feet upstream of Cascade Road	+242	+243	
Rooster River	At upstream side of Railroad	+16	+15	Town of Fairfield.
	At downstream side of Brooklawn Avenue	+20	+19	
Terehaute Brook	Entire reach within City of Danbury	None	+367	City of Danbury.
	Entire reach within City of Danbury	None	+373	
Tributary O at Intervale Road	Entire reach within Town of Stratford	None	+140	Town of Stratford.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Bridgeport

Maps are available for inspection at the City of Bridgeport Zoning Office, 45 Lyon Terrace, Bridgeport, CT.

City of Danbury

Maps are available for inspection at Danbury City Hall, Engineering Department, 155 Deer Hill Avenue, Danbury, CT.

City of Norwalk

Maps are available for inspection at Norwalk City Hall, Planning and Zoning Department, 125 East Avenue, Room 223, Norwalk, CT.

City of Stamford

Maps are available for inspection at the City of Stamford Environmental Protection Board, 888 Washington Boulevard, 7th Floor, Stamford, CT.

Town of Darien

Maps are available for inspection at the Darien Town Hall, 2 Renshaw Road, Darien, CT.

Town of Fairfield

Maps are available for inspection at the Town of Fairfield Engineering Department, Sullivan Independence Hall, 725 Old Post Road, Fairfield, CT.

Town of Greenwich

Maps are available for inspection at the Greenwich Town Hall, Planning and Zoning Department, 101 Field Point Road, Greenwich, CT.

Town of New Canaan

Maps are available for inspection at the New Canaan Town Hall, Office of the Town Clerk, 77 Main Street, New Canaan, CT.

Town of Newtown

Maps are available for inspection at the Town of Newtown Land Use Agency, 31 Pecks Lane, Newtown, CT.

Town of Ridgefield

Maps are available for inspection at the Ridgefield Town Hall Annex, Planning and Zoning Department, 66 Prospect Street, Ridgefield, CT.

Town of Stratford

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Maps are available for inspection at the Stratford Town Hall, Planning and Zoning Department, 2725 Main Street, Stratford, CT.

Town of Trumbull

Maps are available for inspection at the Trumbull Town Hall, Engineering Department, 5866 Main Street, Trumbull, CT.

Town of Weston

Maps are available for inspection at the Weston Town Hall, Office of the Town Clerk, 56 Norfield Road, Weston, CT.

Clinton County, Kentucky, and Incorporated Areas

Cumberland River	Approximately 2,300 feet downstream of the confluence with Tearcoat Creek.	None	+568	Unincorporated Areas of Clinton County.
	Approximately 2,300 feet upstream of the confluence with Millers Creek.	None	+571	
Dale Hollow Lake (Wolf River).	At the confluence with Wolf River	None	+663	Unincorporated Areas of Clinton County.
	Approximately 1,800 feet upstream of the confluence with Spring Creek.	None	+663	
Lake Cumberland	Just upstream of Wolf Creek Dam	None	+760	Unincorporated Areas of Clinton County.
	At confluence with Otter Creek	None	+760	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Clinton County

Maps are available for inspection at 100 South Cross Street, Albany, KY 42602.

Russell County, Kentucky, and Incorporated Areas

Cumberland River	Approximately 3,700 feet downstream of the confluence with Lester Creek.	None	+565	Unincorporated Areas of Russell County.
	Just downstream of Wolf Creek Dam	None	+577	
Lake Cumberland	Just upstream of Wolf Creek Dam	+750	+760	Unincorporated Areas of Russell County, City of Jamestown.
	Just downstream of the confluence with Thomas Branch.	+750	+760	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Jamestown

Maps are available for inspection at 202 Monument Square, Jamestown, KY 42629.

Unincorporated Areas of Russell County

Maps are available for inspection at One Public Square, Jamestown, KY 42629.

Allen Parish, Louisiana, and Incorporated Areas

Beaver Creek	Approximately 7,218 feet downstream of 16th Street	None	+117	City of Oakdale.
	Approximately 575 feet downstream of 16th Street	None	+119	
Bunch Creek	Intersection of Martin Tram Road and Bunchy Creek	None	+37	Unincorporated Areas of Allen Parish.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Calcasieu River	Approximately 3,097 feet upstream of Route 190	None	+38	City of Oakdale.
	Approximately 341 feet upstream of unnamed creek	None	+106	
	Intersection of unnamed creek and Union Pacific Railroad.	None	+107	
Gilley Gully	Approximately 1,539 feet downstream of Martin Tram Road.	None	+35	Unincorporated Areas of Allen Parish.
	Approximately 4,613 feet upstream of Martin Tram Road.	None	+36	
Whisky Chitto Creek	Approximately 10,369 feet upstream of confluence with Calcasieu River and Whisky Chitto Creek.	None	+41	Unincorporated Areas of Allen Parish.
	Approximately 6,544 feet upstream of confluence with Calcasieu River and Whisky Chitto Creek.	None	+41	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Oakdale

Maps are available for inspection at 333 East 6th Avenue, Oakdale, LA 71463.

Unincorporated Areas of Allen Parish

Maps are available for inspection at the Allen Parish Police Jury Office, 602 Court Street, Oberlin, LA 70655.

St. Landry Parish, Louisiana, and Incorporated Areas

Bayou Belleview	Approximately 330 feet downstream of George Street	None	+68	Unincorporated Areas of St. Landry Parish.
	Approximately 125 feet upstream of Gulino Street	None	+70	
Bayou Tesson	Approximately 450 feet upstream of Caddo Street	None	+68	Unincorporated Areas of St. Landry Parish, City of Opelousas.
	Approximately 100 feet upstream of Park Street	None	+70	
Flooding Effects of Unnamed Canal/Ditch.	Approximately 350 feet East of Palm Street	None	+25	Town of Port Barre.
	Approximately 1,800 feet West of State Highway 741 and 25 Feet North of Highway 190.	None	+25	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Opelousas

Maps are available for inspection at 318 North Court Street, Opelousas, LA 70570.

Town of Port Barre

Maps are available for inspection at P.O. BOX 219, 504 Saizan Avenue, Port Barre, LA 70577.

Unincorporated Areas of St. Landry Parish

Maps are available for inspection at P.O. Drawer 1550, 308 West Bloch Street, Opelousas, LA 70571.

St. Martin Parish, Louisiana, and Incorporated Areas

Bayou Peyronnet	2.27 miles upstream of the confluence with Bayou Berard.	None	*13	Unincorporated Areas of St. Martin Parish.
	2.08 miles upstream of the confluence with Bayou Berard.	None	+13	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Bayou Teche	1,900 feet upstream of Smede Highway	None	+15	Unincorporated Areas of St. Martin Parish.
	2.08 miles upstream of Bridge Street	None	+21	
WABPL Borrow Pit (Above Henderson).	1,000 feet downstream of Potato Shed Road	+14	+16	Unincorporated Areas of St. Martin Parish.
	1.25 miles upstream of Potato Shed Road	+14	+17	
WABPL Borrow Pit (Below Henderson).	2,500 feet upstream of the confluence with Berard Canal.	+14	+12	Unincorporated Areas of St. Martin Parish.
	4,500 feet upstream of the confluence with Berard Canal.	+14	+12	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of St. Martin Parish

Maps are available for inspection at 303 West Port Street, St. Martinsville, LA 70582.

Terrebonne Parish, Louisiana, and Incorporated Areas

Bayou Sauveur	At the intersection of Bayou Sauveur and Savanne Road.	None	+5	Unincorporated Areas of Terrebonne Parish.
	At the intersection of Bayou Sauveur and Isle of Cuba Road.	None	+10	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Terrebonne Parish

Maps are available for inspection at P.O. Box 6097, 8026 Main Street/HWY 24, RM 40, Houma, LA 70361.

Madison County, Ohio, and Incorporated Areas

Little Darby Creek	30,610 feet upstream from confluence of Little Darby Creek and Darby Creek.	None	+881	Village of West Jefferson.
	38,850 feet upstream from confluence of Little Darby Creek and Darby Creek.	None	+894	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Village of West Jefferson

Maps are available for inspection at 28 East Main Street, West Jefferson, OH 43612.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Nelson County, Virginia, and Incorporated Areas				
Davis Creek	Approximately 983 feet upstream from the confluence with Rockfish River.	None	+538	Unincorporated Areas of Nelson County.
	Approximately 150 feet downstream from Perry Lane	None	+862	
East Branch Hat Creek	Approximately 215 feet upstream from the confluence with Hat Creek.	None	+674	Unincorporated Areas of Nelson County.
	At the intersection of Shaeffers Hollow Lane	None	+802	
Hat Creek	Approximately 730 feet upstream from the confluence with Tye River.	None	+648	Unincorporated Areas of Nelson County.
	Approximately 610 feet downstream from East Branch Loop.	None	+790	
Muddy Creek	Approximately 544 feet upstream from the confluence with Davis Creek.	None	+550	Unincorporated Areas of Nelson County.
	Approximately 160 feet downstream from Anderson Lane.	None	+689	
Rockfish River	Approximately 400 feet downstream from the confluence with Ivy Creek.	None	+399	Unincorporated Areas of Nelson County.
	Approximately 2,200 feet downstream from Laurel Road.	None	+458	
	Approximately 1,186 feet downstream from Rock Spring Road.	None	+477	
	Approximately 477 feet downstream from the confluence with South Fork Rockfish River.	None	+588	
Tye River	At the intersection of Tye Brook Highway	None	+604	Unincorporated Areas of Nelson County.
	Approximately 2,300 feet downstream from the confluence with Hat Creek.	None	+641	
	Approximately 1,200 feet upstream from the confluence with Unnamed Tributary No. 6 to Tye River.	None	+734	
	Approximately 1,941 feet downstream from Carter Hill Road.	None	+821	
	Approximately 2,100 feet upstream from State Route 682.	None	+892	
	Approximately at the confluence with North Fork Tye River.	None	+1141	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Unincorporated Areas of Nelson County

Maps are available for inspection at 80 Front Street, Lovingston, VA 22949.

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

Dated: May 8, 2009.

Deborah S. Ingram,

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

[FR Doc. E9–11514 Filed 5–15–09; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071220873–7862–01]

RIN 0648–AS25

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Tilefish; Amendment 1

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 1 to the Tilefish Fishery Management Plan (FMP). The proposed measures are intended to address issues and problems that have been identified since the FMP was first implemented. These measures are intended to achieve the management objectives of the FMP, and include measures to implement an Individual Fishing Quota (IFQ) program.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on July 2, 2009.

ADDRESSES: You may submit comments, identified by 0648–AS25, by any one of the following methods:

- Mail: Regional Administrator, Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope, ''Comments on Tilefish Amendment 1 Proposed Rule.''
- Fax: (978) 281–9135.
- Federal e-Rulemaking Portal: *http://www.regulations.gov*.

Instructions: 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 (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Written comments regarding the burden-hour estimate or other aspects of the collection-of-information requirement contained in this proposed rule should be submitted to the Regional Administrator at the address above and by e-mail to *David__Rostker@omb.eop.gov*, or fax to 202–395–7285.

Copies of supporting documents, including the Regulatory Impact Review (RIR) and Initial Regulatory Flexibility Analysis (IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. A copy of the RIR/IRFA is accessible via the Internet at *http://www.nero.noaa.gov/*.

FOR FURTHER INFORMATION CONTACT: Timothy A. Cardiasmenos, Fishery Policy Analyst, 978–281–9204.

SUPPLEMENTARY INFORMATION:

Background

In March 2004, the Mid-Atlantic Fishery Management Council (Council) began development of Amendment 1 to the FMP to evaluate alternatives for a limited access privilege program (LAPP) and other measures for limited access tilefish vessels. The Council held 17 public meetings on Amendment 1 between March 2004 and April 2008. After considering a wide range of issues, alternatives, and public input, the Council submitted a draft environmental impact statement (DEIS) for Amendment 1 to NMFS. The Notice of Availability (NOA) for the DEIS published in the **Federal Register** on December 28, 2007 (72 FR 73798). Following the public comment period that ended February 11, 2008, the Council adopted Amendment 1 on April 10, 2008. Amendment 1 was developed and adopted by the Council consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable law. Amendment 1 management measures were developed by the Council to: (1) Implement an IFQ program; (2) establish IFQ transferability of ownership; (3) establish a cap on the acquisition of IFQ allocation (temporary and permanent); (4) address fees and cost-recovery; (5) establish flexibility to revise/adjust the IFQ program; (6) establish IFQ reporting requirements; (7) modify the Interactive Voice Response (IVR) reporting requirements; (8) implement recreational permits and reporting requirements; (9) improve monitoring of tilefish commercial landings; (10) expand the list of management measures that can be adjusted via the framework adjustment process; (11) modify the Essential Fish Habitat (EFH) designation; (12) modify the habitat areas of particular concern (HAPC) designation; and (13) implement measures to reduce gear impacts on EFH within the Exclusive Economic Zone (EEZ). The proposed IFQ program measures are intended to reduce overcapacity in the commercial fishery, and to eliminate, to the extent possible, problems associated with a derby-style fishery. Amendment 1 also proposes to create a tilefish Charter/Party permit, which would require reporting from owners or operators of vessels that take fishermen for hire. When the original FMP was implemented in 2001, the recreational component of the fishery was believed to be small. However, anecdotal evidence suggests, that in recent years, the recreational component of the fishery may have grown. The tilefish open access Charter/Party permit would provide NMFS with the ability to collect landings information on this component of the fishery in order to properly assess the health of the stock.

Proposed Measures

The measures proposed in this rule are based on the description of the measures in Amendment 1. NMFS has noted instances where it has interpreted the language in Amendment 1 to account for any missing details in the Council's description of the proposed measures. NMFS seeks comments on all of the measures in this proposed rule, particularly those that, where noted, involve an interpretation of Council intent.

Institution of an IFQ Program in the Tilefish Fishery

Amendment 1 proposes that a qualified vessel owner must obtain a valid tilefish IFQ Allocation permit to possess or land tilefish in excess of an incidental catch limit of tilefish (see below). In addition, any vessel owner would be required to possess, and carry on board, a valid tilefish vessel permit to fish for, possess, or land tilefish in or from the Tilefish Management Unit. An incidental catch of 300 lb (136 kg) of tilefish, per trip, could be landed by any vessel issued a tilefish vessel permit, other than a Charter/Party vessel permit, not fishing under a tilefish IFQ

Allocation permit. All permits issued to current limited access vessels (i.e., all Full-time and Part-time vessels) would be automatically converted to tilefish open access permits and issued to the permit holder of record prior to the effective date of the final regulations. In addition, current holders of tilefish limited access permits would be issued a tilefish IFQ Allocation permit if they meet the proposed Amendment 1 qualification criteria (see item B below). IFQ Allocation permit holders would be required to declare all vessel(s) that they own, or lease, that will land their IFQ allocation, by providing a list to NMFS at the beginning of each fishing year (prior to receiving their IFQ Allocation permit).

A. Initial IFQ Allocation Permit Application

NMFS would notify all vessel owners, for whom NMFS has data available, whose vessel(s) meet(s) the qualification criteria described below. Applications for initial tilefish IFQ Allocation permits must be submitted to NMFS no later than 6 months after the effective date of the final regulations.

B. Qualifying Criteria

Amendment 1 specifies the landings and permit history criteria that must be met to qualify for a tilefish IFQ Allocation permit. Under Amendment 1, an individual would be eligible to be issued a tilefish IFQ Allocation permit if he/she owned a vessel that was issued a valid tilefish limited access permit for the 2005 permit year, or if the individual currently holds a valid Confirmation of Permit History (CPH) for the fishing history associated with that vessel (see Item C below for further detail regarding CPH vessels). Vessel owners that meet this permit requirement, and that held, unless otherwise listed under item C, a 2005 tilefish Full-time limited access permit (Category A or B), would be eligible to receive an IFQ allocation based on their average landings for the 2001 through 2005 calendar years. These landings would be used to assign the IFQ allocations to each vessel under the IFQ program by dividing a vessel's landings by the total landings within their respective Category for the 2001 through 2005 calendar years (Category A (i.e., Tier 1, which is allocated 66 percent of the adjusted total allowable landings (TAL)) or Category B (i.e., Tier 2, which is allocated 15 percent of the adjusted TAL)) to derive a percentage. This percentage would then be applied to the adjusted TAL to derive an IFQ allocation percentage. This percentage would be converted to a specific number of pounds. For example, a Category A vessel that landed 20 percent of the average landings within Category A would receive an IFQ allocation equal to 20 percent of 66 percent of the adjusted TAL ($0.2 \times 0.66 \times 1{,}895{,}250$ lb (859,671 kg) = 250,173 lb (113,476 kg)), which is equal to 13.2 percent of the adjusted TAL. Vessel owners that meet the above permit requirement, and that held, unless listed under item C, a 2005 tilefish Part-time limited access permit (i.e., Category C, which is allocated 19 percent of the adjusted TAL), would be eligible to receive an IFQ allocation by dividing the percentage of the adjusted TAL allocated to Category C among those vessels that had landings over the 2001–2005 period to derive a percentage. This percentage would also be converted to pounds. For example, if 10 vessels from Category C qualified for an IFQ allocation, each vessel owner would receive an IFQ allocation equal to 19 percent of the adjusted TAL divided by 10 (0.19 / 10 = 0.019), or 1.9 percent of the adjusted TAL, which is equal to 36,010 lb (16,334 kg). Landings data would be based on NMFS dealer data for 2001, and NMFS IVR data for 2002–2005. For additional information, see item D (Appeal Permit Denial). In order to qualify for an IFQ Allocation, the owner of a vessel issued a valid limited access permit during the 2005 permit year must have average landings, from the 2001–2005 period, that constitute at least 0.5 percent of the quota for the Category for which it was permitted.

C. CPH

A person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, is required to have applied for and received a CPH during the 2005 permit year, if the applicant intends to maintain eligibility for a tilefish IFQ Allocation permit. The CPH provides a benefit to a vessel owner by securing limited access eligibility through a registration system when the individual does not currently own a vessel for the reasons outlined above. Under Amendment 1, a tilefish IFQ Allocation permit would be issued to an individual who owns the history of a vessel that was in CPH during the 2005 permit year, and its IFQ allocation would be determined by the limited access permit that was placed into CPH, provided it meets the respective qualification criteria for that permit as specified in item B above. As with any IFQ allocation, IFQ associated with a CPH could be transferred. IFQ associated with a CPH would count towards an individual's overall interest held in an IFQ allocation, and would be restricted under the proposed 49–percent cap on the acquisition of IFQ.

D. Appeal Permit Denial

Amendment 1 specifies an appeals process for applicants who have been denied a tilefish IFQ Allocation permit. Such applicants would be able to appeal in writing to the NMFS Northeast Regional Administrator (RA). Under this amendment, appeals would be based on the grounds that the information used by the RA in denying the permit was incorrect. The only items subject to appeal under this IFQ program would be initial eligibility for IFQ allocations based on ownership of a tilefish limited access permit, the accuracy of the amount of landings, and the correct assignment of landings to the permit holder. The RA would review, evaluate, and render final decisions on appeals. Amendment 1 would require appeals to be submitted to the RA postmarked no later than 30 days after a denial of an initial IFQ Allocation permit application. The appeal must be in writing, must state the specific grounds for the appeal, and must include information to support the appeal. Hardship arguments would not be considered. The appeal shall set forth the basis for the applicant's belief that the RA's decision was made in error. The appeal may be presented, at the option of the applicant, at a hearing before an officer appointed by the RA. The hearing officer would make a recommendation to the RA. The RA's decision on the appeal would be the final decision of the Department of Commerce.

The final regulations instituting the original FMP were made effective on November 1, 2001. Effective that date, vessels issued a tilefish limited access permit were required to report their landings of tilefish for each fishing trip, via the NMFS IVR call-in system. Under Amendment 1, NMFS IVR landings data would be used to determine landings for years 2002 through 2005, and NMFS dealer data would be used for 2001 (excluding landings reported from May 15, 2003, through May 31, 2004, as a result of the Hadaja v. Evans lawsuit). As indicated above, the data used for the historical landings were based on more than one source. The Council examined the different sources of data available for each year and compared the completeness and accuracy of each source of data. The implementation of the original FMP, in November 2001, required permitted tilefish vessels to submit their landings into the IVR system. Although dealer data have

historically been used to calculate total landings for the purposes of setting an initial quota allocation, the Council decided to use IVR data beginning with 2002 landings to determine the initial tilefish IFQ Allocations.

The rationale for this decision is that: (1) Landings reported via the IVR system were being used to monitor the tilefish quota during the 2002–2005 time period; (2) there were a significant number of documented fishing trips in the IVR that were not reported in the dealer data system, particularly for Full-time Tier 1 vessels that sold predominantly to a single dealer (especially in 2004 and 2005); and (3) the Council did not believe that fishermen would have any incentive to over-report landings via the IVR system because over-reporting of landings would have caused the fishery to close early and adversely effect those who over-reported. Under Amendment 1, during the first year of the IFQ program only, the RA would reserve 15 percent of the TAL prior to initial distribution of IFQ allocations, to be used to allow vessels to fish under a letter of authorization (LOA), pending disposition of an applicant's appeal. Any portion of the 15–percent reserve remaining after the appeals process has been completed would be proportionately distributed back to the initial IFQ recipients as soon as possible that year. If resolution of appeals requires more than a 15–percent reserve, due either to the number of appeals filed, or the time needed to bring them to disposition, the allocations of all initial allocation holders would be reduced proportionately, as soon as possible that year, to accommodate a reserve in excess of the 15 percent. If any subsequent reduction is applied to an IFQ Allocation permit holder that has already fished his/her annual allocation, this further reduction would be treated as an overage in the subsequent fishing year (see Other Measures, item E). An individual whose IFQ Allocation permit application is denied would be eligible to apply for an LOA from the RA to continue to fish for tilefish, pending the resolution of his/her appeal. An LOA would only be issued to an individual that was issued a valid tilefish limited access permit for the 2008 permit year. This LOA would allow a vessel to continue to fish for tilefish. NMFS has preliminarily determined that the number of qualified individuals expected to fish under an LOA, pending an appeal, would not land a percentage of the adjusted TAL that would unreasonably diminish the allocations issued to IFQ Allocation permit holders. However, if individuals fishing under an LOA are projected to land a portion of the adjusted TAL that NMFS determines would unreasonably diminish the allocations issued to IFQ Allocation permit holders, the RA, under authority proposed in § 648.291(d)(3), would impose a trip limit to reduce the landings of individuals fishing under an LOA.

IFQ Program Administration

A. IFQ Allocation Permit Renewal and Allocation of the Tilefish IFQ Total Allowable Landings (TAL)

In order to ensure the processing of an IFQ Allocation permit by the start of the fishing year on November 1, applicants would need to submit their application to NMFS by September 15. Applications received after September 15th may not be approved and issued in time for the beginning of the fishing year, in which case a vessel may not fish for tilefish pursuant to that permit until it is processed by NMFS and sent to the IFQ Allocation permit holder. All IFQ Allocation permits would be required to be issued on an annual basis by the last day of the fishing year for which the permit is required. Failure to renew an IFQ Allocation permit by this date would deem the permit as voluntarily relinquished, with no possibility for reissue or renewal in a subsequent year. The allocation listed on the IFQ Allocation permit would be updated to reflect the results of applicable allocation transfers (if allocation transfers are approved) and any redistribution of allocation resulting from permanent revocation of applicable permits under 15 CFR part 904. Allocation of tilefish quota would be calculated by multiplying an IFQ allocation percentage by the annual adjusted TAL. The updated IFQ Allocation permits would indicate any change in the annual commercial quota for tilefish, and any debits required as a result of prior fishing year overages (see Other Measures, item E). IFQ participants would be able to monitor the status of their allocations by contacting NMFS or by monitoring the NMFS webpage. IFQ Allocation permit holders would be responsible for keeping an accurate record of their landed IFQ allocation for the purposes of future leases and transfers, and to submit a percentage of their annual ex-vessel landings value to pay a cost-recovery fee at the conclusion of the calendar year.

B. Vessel Permit Renewal

Under this proposed rule, a vessel owner, other than the owner of a private recreational vessel, would have to renew his/her tilefish vessel permit annually to possess either an incidental catch of tilefish, or to fish under a tilefish IFQ allocation authorized by an IFQ Allocation permit (see item A above) or a charter/party vessel permit in order to possess amounts of tilefish equal to the possession limit for anglers on board.

C. IFQ Transfers (Temporary and Permanent)

Under Amendment 1, IFQ allocations would be fully transferable among persons or entities that are permanent U.S. citizens or permanent resident aliens, or corporations eligible to own a U.S. Coast Guard documented vessel, as long as they meet the requirements under the Magnuson-Stevens Act. Tilefish IFQ Allocation permit holders would be allowed to transfer IFQ on a temporary and permanent basis by submitting an IFQ Transfer Form to NMFS. This form would contain at least the following data elements: The type of transfer; signature of both parties involved in the transfer; the cost associated with the transfer; and the amount of quota to be transferred. A temporary IFQ transfer (lease) would allow an IFQ Allocation permit holder to sell a temporary right to land tilefish in a specified amount to any other individual for the remainder of the fishing year in which the lease occurs. A permanent IFQ transfer would allow an IFQ Allocation permit holder to permanently sell his/her entire tilefish IFQ allocation, or a portion thereof. An IFQ Allocation permit holder who wishes to lease their IFQ to another individual would be responsible for ensuring that he/she has sufficient remaining allocation for that fishing year to lease. Any attempt to lease out quota in excess of an IFQ Allocation permit holder's existing quota would be denied by NMFS. Once all, or a portion of, an IFQ allocation is leased, the lessee would not be able to subsequently sub-lease that IFQ allocation. If the owner of an IFQ allocation leases additional quota from another IFQ Allocation permit holder, any landings associated with this transferred quota would be deducted before his/her base allocation, if any remains, for the purposes of calculating the cost-recovery fees, as discussed in Item D.

D. IFQ Cost-recovery

Under Section 304(d)(2)(A) of the Magnuson-Stevens Act, the Secretary of Commerce (Secretary) is authorized to collect a fee, not to exceed 3 percent of the ex-vessel value of fish harvested, to recover the costs directly related to the

management, data collection and analysis, and enforcement of IFQ programs such as the one proposed by Amendment 1. The authority and procedures for the collection of cost-recovery fees would be established in this rule. Under the Magnuson-Stevens Act, the cost-recovery fee for any IFQ that was temporarily transferred to another IFQ Allocation permit holder would be the responsibility of the owner of the permanent IFQ allocation, not the lessee. Due to the administrative burden associated with allowing a lessee to pay a cost-recovery fee for temporarily transferred IFQ, such payments are not authorized. Therefore, under Amendment 1, a tilefish IFQ Allocation permit holder with a permanent allocation would incur a cost-recovery fee that would be paid from the value of tilefish landings, authorized under his/her tilefish IFQ Allocation permit, including allocation that is landed under a temporary transfer of allocation. The RA would determine the recoverable costs associated with the management, data collection and analysis, and enforcement of the IFQ allocation program. The cost-recovery billing period would be defined as the full calendar year, beginning with the start of the first calendar year following the effective date of the final regulations implementing Amendment 1.

Prior to the first year of the IFQ program, NMFS would not have information needed to determine the recoverable costs. Therefore, during the initial cost-recovery billing period, the recoverable costs would be set at 3 percent. The recoverable costs would be divided by the amount of the adjusted TAL to derive a fee cost per pound. IFQ Allocation permit holders would be assessed a fee based on the fee cost per pound multiplied by total allocated tilefish landings, in pounds, by such permit holder. If the recoverable costs are determined to be less than 3 percent, NMFS would issue each IFQ Allocation permit holder a fee-overage credit, equal to the amount paid in excess of their portion of the recoverable cost, towards their subsequent year's fee. Three percent of the total ex-vessel value of all tilefish IFQ landings during the cost-recovery billing period, as reported to NMFS from federally permitted dealers, would determine the maximum annual costs that would be recoverable in the fishery. Payment of the cost-recovery fee would be an IFQ Allocation permit condition. NMFS would mail a cost-recovery bill to each IFQ Allocation permit holder for the IFQ cost-recovery fee incurred by that IFQ Allocation permit holder for the previous cost-recovery billing period. IFQ Allocation permit holders would be required to submit payment within 45 days of the date of the NMFS cost-recovery bill. A tilefish IFQ Allocation permit would not be renewed (i.e., not be issued), for the subsequent fishing year, by NMFS, until payment for the prior cost-recovery billing period fee is received in full. The bill for a cost-recovery fee may also be made available electronically, by NMFS, via the Internet. As described above, all IFQ Allocation permit holders would be responsible for submitting fees for all landings associated with their permanent allocation during the calendar year (not fishing year) for later submission to NMFS, to be compliant with section 304(d)(2)(B) of the Magnuson-Stevens Act. Unless otherwise specified below, if an IFQ Allocation permit holder does not pay his/her cost-recovery fee, or pays less than the full amount due, within 45 days of the date on the bill, his/her IFQ Allocation permit would not be renewed for the subsequent fishing year, and no transfers (permanent or temporary) could be made involving this IFQ.

Disputes regarding fees would be resolved through an administrative appeal procedure. If, upon preliminary review of the accuracy and completeness of a fee payment, NMFS determines the IFQ Allocation permit holder has not paid the amount due in full, NMFS would notify the IFQ Allocation permit holder by letter. NMFS would explain the discrepancy and the IFQ Allocation permit holder would have 30 days from the date of the letter to either pay the amount that NMFS has determined should be paid, or provide evidence that the amount paid was correct. The IFQ Allocation permit would not be renewed until the payment discrepancy is resolved. If the IFQ Allocation permit holder submits evidence in support of his/her payment, NMFS would evaluate it and, if there is any remaining disagreement as to the appropriate IFQ fee, prepare a Final Administrative Determination (FAD). A FAD would be the final decision of the Department of Commerce. If the FAD determines that the IFQ Allocation permit holder owes fees, and if the IFQ Allocation permit holder has not paid such fees within the 30 day time period prescribed in the FAD, no tilefish IFQ Allocation permit(s) held by the IFQ Allocation permit holder would be renewed until the required payment is received by NMFS. If NMFS does not receive such payment within the prescribed time period, NMFS would refer the matter to the appropriate authorities within the U.S. Treasury for purposes of collection. If NMFS does not receive such payment prior to the end of the next cost-recovery billing period, the IFQ Allocation permit would be considered voluntarily abandoned, and not renewable. Cost-recovery payments would be required to be made electronically via the Federal web portal, www.pay.gov, or other internet sites as designated by the RA. Instructions for electronic payment would be made available on both the payment website and the paper bill. Electronic payment options may include payment via a credit card (the RA would specify in the cost-recovery bill acceptable credit cards) or direct ACH (automated clearing house) withdrawal from a designated checking account. Payment by check could be authorized by the RA if the RA has determined that electronic payment is not possible for any reason. NMFS would create an annual IFQ report and provide it to the owner of the IFQ Allocation permit. The report would include annual information regarding the amount and value of IFQ tilefish landed during the prior calendar year, the associated cost-recovery fees, and the status of those fees. This report would also detail the costs incurred by NMFS, including the calculation of the recoverable costs for the management, enforcement, and data collection and analysis, incurred by NMFS during the fishing year.

E. IFQ Allocation Acquisition Cap

Amendment 1 would limit the accumulation of IFQ allocation to 49 percent of the TAL allocated to the IFQ program (after adjustments for incidental catch, research set-aside, and/or overages have been made). This would allow for an IFQ allocation accumulation that is 12 percent greater than the largest yearly landing by an individual tilefish vessel during the 1988 through 1998 period. This allocation cap would also allow the two vessel owners that are anticipated to receive the largest initial allocation to consolidate. Thus, Amendment 1 would prohibit any entity from owning, or holding an interest in, more than 49 percent of the tilefish IFQ TAL at any time. Having an interest in an IFQ allocation (permanent or temporary) is defined so as to include allocation held in the following ways: (1) In an IFQ allocation permit holder's name; (2) as a shareholder, officer, or partner of a company; (3) by an immediate family member; or (4) as an owner or a part owner of a company. Temporary and permanent IFQ transfers would be monitored by NMFS to ensure that a transferee does not exceed this

allocation acquisition limit at any point during a fishing year. A declaration of interest in IFQ allocation(s), listed by IFQ Allocation permit number, would be required annually, at the time IFQ Allocation permits are renewed.

F. Periodic Review of the IFQ Program

The Magnuson-Stevens Reauthorization Act established national guidelines for the implementation of a LAPP. The Magnuson-Stevens Act now includes provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program. The Magnuson-Stevens Act further requires a formal and detailed review within 5 years of the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years). Amendment 1 would institute a provision for regular review and evaluation of the performance of the IFQ program. The measures for review may include, but would not be limited to: Capacity reduction; safety at sea issues; transferability rules; ownership concentration caps; permit and reporting requirements; and fee and cost-recovery issues. Other items may be added to address problems and/or concerns with the IFQ program that are unforeseeable at this time. The formal review would be conducted by the Council.

Recreational Measures

A. Charter/Party Vessel Permit Requirements

Amendment 1 would require that any owner of a party or charter vessel carrying fishermen for hire that fishes for tilefish within the U.S. EEZ obtain a valid Federal tilefish open access Charter/Party permit from NMFS. A private recreational vessel, other than a party or charter vessel (vessel for hire), would be exempt from this permitting requirement; however, it could not land more than the recreational tilefish landing limit (see Item B below), multiplied by the number of persons on board, per trip. A charter/party vessel could have both a Federal Charter/Party permit and a commercial permit to catch and sell tilefish under an IFQ Allocation permit. However, such a vessel could not fish under the IFQ Allocation permit if it is carrying passengers for a fee. Amendment 1 would require that Federal Charter/Party permitted vessels report tilefish landings on NMFS-issued Fishing Vessel Trip Report forms. The collection of this information would provide valuable data to determine the number of vessels and level of activity in the recreational tilefish fishery.

B. Recreational Bag Limits

Amendment 1 would institute a recreational landing limit of eight tilefish per person per trip. NMFS vessel trip report (VTR) data between 1996 and 2005 indicate that recreational tilefish landings by charter/party vessels have ranged from 81 to 994 tilefish per year. Mean angler catches onboard charter/party vessels have ranged from approximately one fish per angler, in most years, to eight fish per angler. Therefore, the proposed recreational bag limit of eight tilefish per person per trip would be at the upper range of the mean effort seen in the last 10 years.

EFH Measures

A. EFH Designations

Amendment 1 would modify the current EFH designations based on the incorporation of new information and a re-examination of information that was used to develop the original EFH descriptions in the FMP. The new designations would rely on temperature and sediment type as a stronger indicator of EFH for tilefish, with depth as a secondary correlate. The depth that corresponds to the revised temperature profile is between 100 and 300 m (328 to 984 ft). Specific locations and maps for the new proposed EFH designation can be found in Amendment 1.

B. HAPC

Amendment 1 would designate HAPC for juvenile and adult tilefish as clay outcrop/pueblo village habitats within Norfolk, Veatch, Lydonia, and Oceanographer Canyons at the depth range specified for tilefish EFH (100–300 m, 328–984 ft). Amendment 1 contains locations and maps that depict these areas.

C. Gear Restricted Areas (GRAs)

The Magnuson-Stevens Act requires that Councils evaluate potential adverse effects of fishing activities on EFH and include in FMPs management measures necessary to minimize adverse effects to the extent practicable. Specifically for tilefish, clay outcroppings (pueblo habitats) have been determined to be highly vulnerable to permanent disturbance by bottom- tending mobile gear such as the bottom otter trawl, as described in Amendment 1. Therefore, several GRAs are proposed to minimize impacts on juvenile and adult tilefish EFH from bottom trawling activity. These proposed closed areas do not follow the depth contours exactly, but are designed as polygonal areas that approximate the areas and depths described, while allowing for straight boundaries for enforcement purposes. In addition, because these areas are closed polygons, any areas within those GRAs that are deeper than the maximum depth that defines tilefish EFH would also be closed to bottom trawling activity, even though they are not defined as EFH. Amendment 1 would prohibit bottom trawling, within and adjacent to the four Canyons identified as HAPC, at depths associated with the revised EFH designation. These GRAs were considered because of the potential for current or future bottom otter trawling activity to impact clay outcroppings within these canyon areas. Three Canyons - Norfolk, Veatch, and Lydonia -are known to have tilefish ''pueblo burrows'' that are formed in exposed clay outcroppings. In addition, clay outcroppings are known to exist in Oceanographer Canyon. As proposed in this rule, the GRA closures would be bounded by the coordinates listed below.

Canyon	N. Lat.			W. Long.		
	Degrees	Min	Seconds	Degrees	Min	Seconds
Oceanographer	40.0	29.0	50.0	68.0	10.0	30.0
	40.0	29.0	30.0	68.0	8.0	34.8
	40.0	25.0	51.6	68.0	6.0	36.0

Canyon	N. Lat.			W. Long.		
	Degrees	Min	Seconds	Degrees	Min	Seconds
	40.0	22.0	22.8	68.0	6.0	50.4
	40.0	19.0	40.8	68.0	4.0	48.0
	40.0	19.0	5.0	68.0	2.0	19.0
	40.0	16.0	41.0	68.0	1.0	16.0
	40.0	14.0	28.0	68.0	11.0	28.0
Lydonia	40.0	31.0	55.2	67.0	43.0	1.2
	40.0	28.0	52.0	67.0	38.0	43.0
	40.0	21.0	39.6	67.0	37.0	4.8
	40.0	21.0	4.0	67.0	43.0	1.0
	40.0	26.0	32.0	67.0	40.0	57.0
	40.0	28.0	31.0	67.0	43.0	0.0
Veatch	40.0	0.0	40.0	69.0	37.0	8.0
	40.0	0.0	41.0	69.0	35.0	25.0
	39.0	54.0	43.0	69.0	33.0	54.0
	39.0	54.0	43.0	69.0	40.0	52.0
Norfolk	37.0	5.0	50.0	74.0	45.0	34.0
	37.0	6.0	58.0	74.0	40.0	48.0
	37.0	4.0	31.0	74.0	37.0	46.0
	37.0	4.0	1.0	74.0	33.0	50.0
	36.0	58.0	37.0	74.0	36.0	58.0
	37.0	4.0	26.0	74.0	41.0	2.0

Other Measures

A. Frameworkable Measures

Amendment 1 proposes additional management measures that have been identified in the FMP that could be implemented or adjusted at any time during the year through the framework adjustment process. The recreational management measures that would be added to the list are: (1) Recreational bag limit; (2) fish size limit; (3) seasons; and (4) gear restrictions or prohibitions. The additional measures that would facilitate the periodic review of the IFQ program are: (1) Capacity reduction; (2) safety at sea issues; (3) transferability rules; (4) ownership concentration caps; (5) permit and reporting requirements; and (6) fee and cost-recovery issues. Adding these measures to the list of measures that could be addressed via the framework adjustment process would provide flexibility to managers to address potential changes in the fishery in a timely manner.

B. Submission of Catch Reports

The current FMP requires that the owner or operator of any vessel issued a limited access permit for tilefish submit a tilefish catch report, via the IVR system, within 24 hr after returning to port and offloading. Amendment 1 would ease this requirement to require that tilefish catch reports be submitted via the IVR within 48 hr after offloading. This would allow for tilefish fishermen to report catch via the IVR after the fish have been weighed by the dealer to allow for a more accurate report of landings via IVR. This alternative is expected to allow fishermen to provide better data. Amendment 1 would also require that the VTR serial number be inputted into the IVR system in order for this to be used as a trip identifier to match all reported IVR landings to dealer reports. This would allow for better matching of IVR data to dealer (weighout) data on a trip-by-trip basis. In addition, the dealer number would be required to be inputted into the IVR system. This would ensure that amounts of tilefish landed, and ex-vessel prices, are properly recorded for quota monitoring purposes and the calculation of IFQ fees, respectively. This would also ensure an accurate association of tilefish landings with IFQ Allocations.

C. No Discard Provision

Amendment 1 would prohibit any commercial vessel from discarding tilefish. This would prohibit the practice of highgrading, whereby low-value tilefish are discarded so that higher-value tilefish may be retained. As indicated in Amendment 1, current NMFS data show that commercial discard of tilefish is almost non-existent. Therefore, this is an opportune time to prohibit commercial discards.

D. Monitoring of Tilefish Commercial Landings

The management unit for this FMP is defined as all golden tilefish under U.S.

jurisdiction in the Atlantic Ocean north of the Virginia/North Carolina border. Tilefish south of the Virginia/North Carolina border are currently managed as part of the Fishery Management Plan for the Snapper-Grouper Fishery managed by the South Atlantic Fishery Management Council. Currently, the FMP does not restrict fishermen that hold both a Federal Northeast tilefish permit and a Southeast Federal snapper/grouper permit, to fish for tilefish both inside and outside of the Tilefish Management Unit (TMU), as defined in § 648.2, on the same trip. If tilefish landings are not properly reported to indicate where each species is caught, the recovery of the stock could be adversely affected. To avoid these reporting problems, Amendment 1 would require vessels that catch tilefish from the TMU to land tilefish within the TMU only, and prohibit combination trips in which vessels fish both inside and outside the TMU for golden tilefish on the same trip. Furthermore, Amendment 1 would prohibit dealers from purchasing or otherwise receiving for commercial purposes tilefish caught in the EEZ from outside of the TMU, as described in § 648.2, unless otherwise permitted under 50 CFR part 622. These new requirements would ensure that all tilefish landings are reported in the appropriate management unit.

E. Overages

Under Amendment 1, an IFQ allocation that is exceeded will be reduced by the amount of the overage in the subsequent fishing year. If an IFQ allocation overage is not deducted from the appropriate allocation before the IFQ Allocation permit is issued for the subsequent fishing year, a revised IFQ Allocation permit reflecting the deduction of the overage shall be issued by NMFS. If the allocation cannot be reduced in the subsequent fishing year because the full allocation had already been landed or transferred, the IFQ Allocation permit would indicate a reduced allocation for the amount of the overage in the next fishing year. If quota is temporarily transferred and the lessee exceeds a permit holder's temporary IFQ allocation, the overage would be deducted from the allocation of the permanent IFQ Allocation permit holder who leased the IFQ allocation.

Classification

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

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

A Notice of Availability (NOA) was published on May 4, 2009. Public comments are being solicited on the amendment through the end of the comment period stated in the NOA (July 6, 2009). Public comments on the proposed rule must be received by the end of the comment period on the amendment, as published in the NOA, to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on the amendment, whether specifically directed to the amendment, or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

The Council prepared an FEIS for Amendment 1; the FEIS describes the impacts of the proposed Amendment 1 measures on the environment. Since most of the measures would determine whether or not fishermen could continue to fish for tilefish, and at what level in the future, the majority of the impacts are social and economic. Although the impacts may be negative in the short term for fishermen who do not qualify for an IFQ Allocation, the long-term benefits to the Nation of a tilefish fishery without over-capitalization and derby style fishing would be positive.

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for these collections of information are estimated to average as follows:

1. Initial application for an IFQ Allocation permit - 30 min per response;
2. Renewal application for an IFQ Allocation permit - 15 min per response;
3. Appeal of an initial IFQ Allocation permit denial - 2 hr per response;
4. Completion of an IFQ allocation interest declaration form - 5 min per response;
5. Application for an IFQ transfer (permanent or temporary) - 5 min per response;
6. Electronic Payment of Cost-recovery Fees - 2 hr per response;
7. Additional IFQ Reporting Requirements - 2 min per response.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the RA as specified in **ADDRESSES**, and by e-mail to *David__Rostker@omb.eop.gov* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Pursuant to 5 U.S.C. 603, NMFS prepared an IRFA, which describes the economic impacts that this proposed rule, if adopted, would have on small entities. A description of the reasons why this action is being considered, as well as the objectives of and legal basis for this proposed rule, is found in the preamble to this document. There are no Federal rules that duplicate, overlap, or conflict with this proposed rule. This action primarily proposes to implement an IFQ program in the tilefish FMP.

Description and Estimate of the Number of Small Entities to Which this Proposed Rule Would Apply

Currently the tilefish quota is divided among three limited access fishing categories under the limited access program. A total of 31 vessels (Full-time, Part-time, and CPH) are currently permitted to participate in the limited access tilefish fishery. In addition, approximately 2,400 vessels currently hold an open access tilefish Incidental category permit. The proposed action would mostly affect the 31 vessels that participate in the fishery under the current limited access system. The proposed IFQ program only applies to the Full-time and Part-time tilefish

vessels. If this action is implemented, vessels with an Incidental tilefish permit would continue to operate with a tilefish open access permit that would allow the landing of an incidental catch of tilefish, i.e., 300 lb (136 kg). In addition, according to NMFS VTR data, 32 vessels have landed tilefish from 1996 through 2005. The Small Business Administration (SBA) defines a small business in the commercial fishing and recreational fishing industry, as a firm with receipts (gross revenues) of up to $4.0 and $6.5 million, respectively. All persons or entities that own permitted vessels fall within the definition of small business.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action contains several new collection-of-information, reporting, and recordkeeping requirements. The following describes these requirements.

1. Initial IFQ Allocation Permit

Since 32 vessels have landed tilefish during the period described above, NMFS estimates that there would be, at most, 32 applicants for an IFQ Allocation permit. Each IFQ Allocation permit application will take approximately 30 min to process. Consequently, the total time burden for the initial applications would be approximately 16 hr (32 × 30 min/60 min = 16). According to the analysis for Amendment 1, only 13 IFQ applicants are expected to qualify and consequently renew their applications each year. IFQ Allocation permit renewal is estimated to take 15 min per application on average, for a total burden of approximately 3.25 hr per year (13 × 15 min/60 min = 3.25). Thus, the 3-year average total public time burden for IFQ Allocation permit applications and permit renewals would be approximately 7.33 hr ((15.5 + 3.25 + 3.25)/3 = 7.33). Up to 32 applicants could potentially appeal their IFQ Allocation permit application decision over the course of the application period. The appeals process is estimated to take 2 hr per appeal to complete, on average, for a total burden of 64 hr. The burden of this one-time appeal, annualized over 3 years, would be 21.33 hr.

2. Permanent and Temporary Transferability of IFQ

Using the NMFS Northeast Region Atlantic Surfclam & Ocean Quahog (SC/OQ) ITQ Transfer Program (OMB Control No. 0648–0240) as a proxy for the response rate for the tilefish IFQ quota transfer program, it is anticipated that there would be approximately 65 quota transfers (permanent and temporary) annually in the tilefish IFQ program. It is reasonable that it would take the same amount of time to complete a tilefish IFQ transfer application as it does to complete a SC/OQ transfer application. Therefore, using SC/OQ as a proxy, it is estimated that each transfer application would take approximately 5 min to complete. As noted above, the Council estimates that 13 entities would qualify for an initial tilefish IFQ Allocation. If these 13 IFQ Allocation permit holders completed 5 transfers annually, at 5 min per form, the annual burden would be approximately 5 hr.

3. IFQ Allocation Acquisition

To administer the 49–percent limit on IFQ allocation acquisition, tilefish IFQ Allocation permit holders would be required to submit an IFQ allocation interest declaration form annually, at the time that they submit their IFQ Allocation permit renewal applications. If there are approximately 13 initial tilefish IFQ Allocation permits issued, there would be 13 interest declaration forms each in the second and third years. However, due to IFQ allocation transfer, it is possible that there could be a different number of IFQ Allocations after the initial year. It is estimated that it would take 5 min to complete each IFQ allocation interest declaration form; therefore, the annual reporting burden would be 1 hr (13 × 5 min/60 min), or 1 hr, averaged over the first 3 years.

4. Cost-recovery Fee Collection

As NMFS is initiating cost-recovery for this program, there are no current data for use in estimating the burden associated with submitting a cost-recovery payment. Using the burden per response used by the NMFS Alaska Region's Individual Fishing Quota Cost-Recovery Program (OMB Control No. 0648–0398) as a proxy for the tilefish IFQ program, it is estimated that it would take 2 hr per response. Each tilefish IFQ Allocation permit holder would be required to submit a cost-recovery payment once annually. Assuming that there are 13 tilefish IFQ Allocation permit holders, the burden hour estimate is 26 hr (13 × 2).

5. IFQ Reporting Requirements

Tilefish vessels would be required to input their pre-printed VTR serial number and dealer number into the IVR system within 48 hr of landing. Using the burden per response used by the current Northeast Family of Forms (OMB Control No. 0648–0202) as a proxy for the tilefish IFQ program, it is estimated that it would take 2 min for each IVR response. Landings data collected from vessels within the Full-time Tier–1 category for the previous 3 years indicate that they land, on average, 19 times a year. The current Full-time Tier 1 category is thought to most closely resemble the future IFQ program, as vessels currently have a cooperative system in place to evenly distribute landings throughout the year. As stated earlier, the Council estimates that 13 entities would qualify for an initial tilefish IFQ Allocation. The 13 vessels associated with these initial allocations would each call into the IVR system approximately 19 times a year. Amendment 1 would require two new IVR reporting requirements (dealer number and pre-printed VTR serial number). Each call to the IVR system would now include an additional two responses, each requiring 2 min of response time. This additional burden would be approximately 16 hr (13 × 19 × 4 / 60 min).

Economic Impacts of the Proposed Measures

Based on preliminary unpublished NMFS dealer data from Maine to Virginia, the 2005 total commercial value for tilefish was estimated at $3.3 million from Maine through Virginia.

As estimated above, assuming 2005 ex-vessel prices, the overall reduction in gross revenue under the proposed measures would be less than $100,000 relative to 2005. More specifically, the proposed IFQ program is projected to increase ex-vessel revenue by approximately $253,000 resulting from spreading landings throughout the year and not engaging in derby-style fishing. The implementation of cost-recovery, under Amendment 1, will decrease vessel gross revenues by approximately $141,066, assuming a TAL of 1.995 million lb (0.905 million kg), and 2005 tilefish ex-vessel value. The initial default fee and cost-recovery rate of 3 percent may change in subsequent years if the fee and cost-recovery is lower than initially assessed. Therefore, potential changes in revenue associated with the cost-recovery program may be lower than estimated here. The potential reduction in ex-vessel revenue associated with the implementation of GRAs could be approximately $210,000. However, as indicated in the analysis of the GRA alternatives, it is expected that localized reductions in revenues due to the proposed GRAs are likely to be partially or completely recouped due to an increase in effort outside of the GRAs. Effort displacement could, however, increase operating costs for fishermen who are forced to fish in

other areas. As such, the lost revenue estimates represent a worst case prediction of the anticipated loss in ex-vessel revenues that would result from closing this area to bottom otter trawling. Finally, the proposed IFQ program also has associated costs to fishermen and the Federal Government due to processing of payment fees, sale of IFQ allocations, and lease of IFQ allocations. These additional costs are estimated to be approximately $1,270 for fishermen and $2,110 for the Federal Government during the first year of implementation. These additional costs are expected to be reduced thereafter to approximately $600 and $625 for fishermen and the Federal Government, respectively.

Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

Measures Affecting Fishery Program Administration

1. IFQ System

A detailed description of each IFQ Allocation alternative is presented in Section 5.1 of Amendment 1, and the analysis of impacts is presented in Section 7.1. The original FMP implemented a limited entry program and a tiered commercial quota allocation of the TAL. However, the original FMP does not address how the quota is to be distributed among vessels within each of the three limited access fishing categories. Currently, the tilefish fishery is overcapitalized. While there are fewer boats participating in the fishery today, there are still more boats in the fishery than required to efficiently harvest the TAL. Furthermore, derby-style fishing conditions in the Part-time and Full-time Tier 2 categories have forced early closures in recent years. The proposed IFQ program would eliminate the derby-style fishing that exists under the current management system. Under the proposed IFQ program, fishermen could decide when to harvest, taking into consideration weather conditions and price at the dock, without potentially losing their fishing opportunity if the quota is reached.

The IFQ Allocation management measures within Amendment 1 analyze a wide variety of different systems. The evaluated IFQ programs could have implemented quota allocations for the Full-time Tier 1 category only, or for the Full-time Tier 1 and Tier 2 categories only, or for all Full-time and Part-time categories. As is currently the case, the Full-time Tier 1 category would initially receive 66 percent of the initial TAL (after adjusting for incidental category landings), the Full-time Tier 2 category vessels would receive 15 percent, and the Part-time category would receive 19 percent. However, each IFQ alternative proposed under Amendment 1 would allocate specific quota allocations to vessels within the three permit categories based on historical landings from one of three proposed sets of time periods (average landings for 1988–1998, average landings for 2001–2005, or best 5 years from 1997 to 2005) or by dividing the overall quota for each permit category equally among all permitted vessels in each category.

As previously indicated, all of the IFQ Allocation alternatives considered under Amendment 1 would have the potential to reduce fishing capacity, as it is expected that these alternatives would all allow fishermen to improve overall fishing methods by providing more flexibility in deciding when, where, and how to fish. The reduction in fishing capacity could potentially be the highest under the IFQ programs evaluated that include the largest number of permit holders (e.g., Alternatives 5.1.D and 5.1.E within Amendment 1). Furthermore, alternatives that allocate the initial IFQ in a manner that rewards more recent fishing participation would also further reduce excess fishing capacity and latent fishing effort. In addition, smaller operators, with limited quota allocations, but with other fishing opportunities and earnings, may quickly exit the fishery. Operators with larger quota allocations, more experience, and/or significantly less fishing opportunities and earnings in other fisheries (or sectors of the economy) may take longer, or not exit the fishery at all. These marginal operations are expected to continue to fish for tilefish under an IFQ program as long as they can cover their variable costs. By improving catch efficiency under an IFQ program, operating costs could be lowered as fishermen have more flexibility in their input choices and trip planning. This in turn is expected to promote safer at-sea operating conditions.

The Council adopted management measures to implement an IFQ program in all three of the current limited access permit categories. Under Amendment 1, IFQ Allocation for qualifying Full-time vessels would be distributed using average landings for the 2001–2005 period. For Part-time vessels, an equal allocation would be used to calculate IFQ for vessels that landed tilefish during the 2001–2005 period. The specific IFQ Allocations associated with all of the evaluated alternatives are fully described in section 7.1 of Amendment 1. It is expected that landings for Full-time vessels would not change under an IFQ program when compared to the landings generated by these vessels under the current limited access system in 2005 (base year). The proposed IFQ program is not expected to change the overall amount of tilefish landed, since this fishery is already operating under a hard TAL system, and the TAL is being fully harvested. The IFQ program would only be dividing and assigning the current TAL (as reduced by research set-asides, incidental catch, and prior year overages) to individual fishermen. Overall tilefish prices are not expected to change significantly, and the overall landings are likely to remain constant under the current rebuilding scheme. However, it is likely that Part-time vessels qualifying for IFQ Allocations may spread their landings throughout the year (to avoid the current derby-style fishing practices) and, therefore, they are more likely to receive higher prices for their product. Assuming the current TAL allocated to the Part-time vessels, and the 2005 tilefish price differential between Full-time and Part-time vessels, it is expected that Part-time vessels may generate revenue increases, from spreading landings throughout the year and not engaging in a derby-style fishery, of approximately $253,000. An increase in tilefish prices could decrease consumer surplus. If there is a change in the price of tilefish there would be associated changes in producer surplus (PS). The magnitude of the PS change will be associated with the price elasticity of demand for this species. The law of demand states that the price and quantity demanded are inversely related. The elasticity of demand is a measure of the responsiveness of the quantity that will be purchased by consumers, given changes in the price of that commodity (while holding other variables constant). Seafood demand, in general, appears to be elastic. For example, an increase in the ex-vessel price of tilefish may increase PS. A decrease in the ex-vessel price of tilefish may also increase PS if we assume that the demand for tilefish is moderately to highly elastic. The exact shape of the market demand curve for tilefish is not known; therefore, the magnitude of these changes cannot be fully assessed. In addition, the proposed tilefish IFQ program may also affect the ability of fishermen to negotiate better prices for their product.

Under the status quo alternative, the commercial tilefish fleet would likely continue to be characterized by higher than necessary levels of capital investment and increased operating

costs. In addition, shortened seasons and limited at-sea safety, price fluctuations, and depressed ex-vessel price, would continue. The implementation of an IFQ program would likely decrease overcapitalization, distribute fishing effort throughout the year, decrease operating costs by allowing fishermen to better manage their operations, and potentially increase ex-vessel prices. The proposed measures are not expected to change enforcement costs drastically. However, it is possible that these costs would decrease.

2. Permanent Transferability of Ownership

The Council considered five alternatives that would define transferability of ownership.

Restrictions on who may purchase quota allocations, after an initial IFQ allocation has been established, are frequently a major consideration when developing IFQ programs. Transfer restrictions are generally used to address concerns that implementation of an IFQ program will result in drastic and rapid changes to the status quo. In the short-run, transferability results in lower operating costs and higher production value in fisheries that have large harvesting capacity. Fishermen that can operate at the lowest cost, or produce the most valuable product, are able to buy or lease fishing quotas from marginal operators at a price that is satisfactory to both parties. In the long-run, transferability of quota is anticipated to optimize the size of the tilefish fishing fleet as an allocation holder will have no economic incentive to invest in a level of capital larger than needed to land their quota allocation. If free transfer of quota allocations is implemented under an IFQ program, the existing fishery would likely change rapidly and/or substantially. In addition, it is possible that IFQ could be sold to entities that are willing to pay the highest price. It is likely that these entities would operate at the lowest cost, produce the most valuable product, and in general terms, be the most efficient.

The no-action alternative would prohibit the transfer of IFQ allocations. Thus, the no-action alternative would not benefit those wishing to sell their allocations or buy allocations to enter the fishery or expand fishing operations. The Amendment 1 preferred alternative for quota allocation transfer would allow for free quota allocation transfers where any entity could buy quota allocations with limited restrictions, and would enhance the market for IFQ allocations to a greater extent than any other evaluated alternative. The other alternatives would all restrict the transfer of IFQ in some fashion, at a level between the no-action and the preferred alternative. It is likely that increased demand for a commodity that has a fixed supply would tend to increase the selling price. These alternatives are not expected to alter the amount of tilefish landings and, as such, changes in the ex-vessel price, consumer surplus, and PS are not expected. In addition, no changes in enforcement costs are anticipated as a result of this action. However, the harvest cost for individuals that lease IFQ Allocations may increase, and thus, their producer surplus may decrease.

3. Temporary Transferability of Ownership

As indicated in Section 7.3 of Amendment 1, some degree of temporary transfer (leasing) flexibility may be important to allow fisheries to adapt to change. For instance, leasing would allow fishermen without a quota allocation, or a small initial quota, to lease quota allocation in order to participate in the fishery, and fine tune their operations before they make a commitment to purchase IFQ allocations. The supply and demand factors that affect the price of IFQ allocations, and the benefits to fishing operations that are derived from the various levels of transferability systems discussed under the previous alternative, also apply here. As occurs with the permanent transfer of ownership, the difference in leasing price for the alternatives evaluated cannot be estimated with the existing information. It is possible that a lease would move quota allocations to individuals that are willing to pay the highest price. It is likely that these individuals would operate at the lowest cost, produce the most valuable product, and in general terms be the most efficient operators. However, the overall harvest cost may increase for these individuals as a consequence of leasing IFQ Allocations. IFQ Allocation permit holders can also benefit from leasing, as they can modify their operations to deal with market fluctuations, lease their allocations in the event of some type of physical or mechanical hardship, or lease to generate revenue. These alternatives are not expected to alter the amount of tilefish landings; therefore, changes in the ex-vessel price and consumer surplus are not expected. In addition, no changes in enforcement costs are anticipated as a result of this action.

4. IFQ Allocation Acquisition

IFQ consolidation may lead to positive economic development and may be considered a rational outcome of a LAPP. However, consolidation may result in only a few participants enjoying the benefits of the public tilefish resource. As the price of allocations rise, smaller operators may not be able to afford to buy into the fishery. Therefore, smaller operators may lease allocations and the fishery may become comprised of absentee owners. Alternative 4A would not restrict allocation consolidation. This could potentially lead to increased economic efficiency as vessel owners could attempt to maximize profit by improving vessel efficiency and benefit from the opportunity to reduce production costs (economic efficiency grounds; exploitation of economies of scale). Other alternatives would limit the amount of consolidation in the fishery, which may not allow for the most efficient vessel operations, and/or impact the initial quota allocation. An excessive allocation limit can only be defined in the context of a well defined problem, which is related to the amount of quota allocation owned or controlled by a single entity, or by the number of operating entities. The excessive allocation limit is defined as the limit that prevents the problem from occurring, or keeps it at an acceptable level. One of these problems is the potential control of market power in the tilefish fishery. The Amendment 1 preferred alternative would set an individual allocation accumulation limit at 49 percent of the TAL (adjusted). In selecting this alternative, the Council considered the potential market power impact that an individual entity could have when accumulating tilefish IFQ allocations, and considered the historical fishing practices in the fishery. Due to the large number of substitutes for tilefish that are available in the marketplace, the Council does not believe that any level of IFQ ownership in the tilefish fishery would allow a single harvester to control the market price for tilefish. The Council also considered historical landings and participation when setting the allocation cap at 49 percent. Prior to the implementation of the original FMP, one vessel landed approximately 36 and 37 percent of the overall tilefish landings during the 1989 and 1990 years, respectively. Therefore, a 49–percent IFQ allocation acquisition limit would provide tilefish vessels with an opportunity to accumulate allocations modestly above what some specific vessels have landed in recent history in

order to potentially allow for the most efficient operations to harvest the quota. Furthermore, the Council was concerned that, if the overall TAL is reduced in the future, then Full-time Tier 1 and Tier 2 vessels may not be able to fish at efficient levels and may require the buying or leasing of additional allocations from other vessels in order to continue to participate in the fishery. The vessels that originally qualified for the Full-time permit categories had more than enough capacity to harvest the current quota level. In fact, in 1997, three Full-time vessels landed between 706,000 lb (320,236 kg) and 811,000 lb (367,863 kg) of tilefish. These alternatives are not expected to alter the amount of tilefish landings or result in changes to the ex-vessel price, consumer surplus, or PS. No changes in enforcement costs are anticipated as a result of this action.

5. Commercial Trip limits

Amendment 1 analyzed an alternative that would have instituted a commercial trip limit of 15,000 lb (6,804 kg) of tilefish for the Part-time category, if an IFQ program was not adopted for this category by the Council. The Part-time category had early closures in 2002, 2004, 2005, and 2006. A threshold analysis (see section 7.5.1 of the Amendment 1 document) indicated that a 15,000–lb (6,804–kg) threshold would affect few trips, according to VTR landings data for the 2001 through 2005 fishing years. Therefore, it is not likely that this trip limit would have significantly affected the fishing season for this permit category. Neither of these alternatives are expected to alter the amount of tilefish landings and, as such, changes in the ex-vessel price, harvest cost, consumer surplus, and PS are not expected. No changes in enforcement cost or distributive effects are anticipated as a result of this action.

6. Fees and Cost-recovery

As previously indicated, NMFS is required under the Magnuson-Stevens Act to collect fees to recover the costs directly related to the management, enforcement, and data collection and analysis of IFQ programs. Under section 304(d)(2) of the Magnuson-Stevens Act, the Secretary is authorized to collect a fee to recover these costs. The fee shall not exceed 3 percent of the ex-vessel value of the fish harvested. A fee and cost-recovery program for the tilefish fishery would be implemented under the two action alternatives. The main difference between these two alternatives is the manner in which payments are collected and made. Under Alternative 6B, the IFQ Allocation permit holder would be responsible for self-collecting his or her own fee liability for all of his/her IFQ tilefish landings for later submission to NMFS. Under Alternative 6C, federally permitted dealers would be required to collect a fee, for later submission to NMFS, when they purchase tilefish. Each of these alternatives would implement a 3–percent fee of the actual ex-vessel value of tilefish landed under the IFQ program. The fee can be adjusted downward by NMFS in the event the recovered fees exceed the costs directly related to the management, enforcement, and data collection and analysis of the LAPP components of the tilefish fishery. If an IFQ program is implemented for all permit categories, based on a TAL of 1.995 million lb (904,917 kg) of tilefish, then applying a 2005 coast wide average ex-vessel price for all market categories of $2.48 per pound at the maximum fee level of 3 percent, the total fee expected to be collected in the first year of the program would be $141,066. Applying these assumptions regarding quota and price at the 2–percent fee level, the total fee expected to be collected would be $94,044. Producer surplus would be reduced by the amount of the fee plus any other costs associated with paying the fee. Those costs would include time and materials required for completing the paperwork and paying the fee. Preliminary analyses show that the management, enforcement, and data collection and analysis cost would be approximately $94,000, which would be less than the 3–percent maximum fee. Under a dealer-pays cost-recovery scheme, dealers must report landings to the NMFS electronic system via the Internet. If needed, a dealer may have to expend approximately $1,500 for the start-up costs associated with computer and software purchases in order to use the electronic reporting and cost-recovery fee payment systems. In addition, between $200 and $400 a year may be required for Internet access. These alternatives are not expected to alter the amount of tilefish landings; therefore, changes in the ex-vessel price, harvest cost, and consumer surplus are not expected. No changes in enforcement cost or distributive effects are anticipated as a result of this action.

7. IFQ Program Review Process

Alternative 7C was considered, but rejected for further analysis, because this alternative would implement a review process that may be too complicated and tedious for managers and stakeholders to implement. It was not given further consideration beyond the justification for rejection. Under Alternative 7A, a formal review process would not be required if an IFQ program is put in place for the commercial tilefish fishery. Alternative 7B would provide for an enforceable provision for regular review and evaluation of the performance of the IFQ program. Either alternative may allow fishermen to engage in long-term planning and investment. Long-term fishing privileges reduce business uncertainty and provide incentives to invest in the resource, thus allowing for the flexibility for review and/or adjustments to improve the IFQ program. These alternatives are not expected to alter the amount of tilefish landings and, as such, changes in the ex-vessel price, harvest cost, and consumer or PS are not expected. No changes in enforcement costs or distributive effects are anticipated as a result of this action.

8. Reporting Requirements

The No-Action alternative would not change the current reporting system in the limited access fishery. Alternative 8B would modify the current reporting system to include additional requirements that would identify landings under an IFQ program in a more efficient manner. Under Alternative 8B, a trip identifier (pre-printed VTR serial number) would be mandatory for IVR reports in order to match all reported IVR landings to the dealer reports. This would allow for all IVR data to match dealer data on a trip-by-trip basis, and this would ensure that amounts of tilefish landed and ex-vessel prices are properly recorded for quota monitoring purposes and the calculation of IFQ fees, respectively. In addition, the dealer number would also need to be recorded into the IVR to have vessels report pounds landed, by dealer, on the IVR. This action is purely administrative and is not expected to alter the amount of tilefish landings and, as such, changes in the ex-vessel price, harvest cost, and consumer or PS are not expected. In addition, no changes in enforcement cost or distributive effects are anticipated as a result of this action. The current tilefish regulations require that the owner or operator of any vessel issued a limited access permit for tilefish must submit a tilefish catch report via the IVR system within 24 hr after returning to port and offloading. The requirement to provide tilefish catch reports within 24 hr after landing/offloading may force fishermen to report preliminary catch data into the IVR system. In addition, industry members have also indicated that, if they report landings after reaching port but before the fish has been packed-out, the catch estimates can be off by as

much as 1,500 lb (680 kg). Alternative 9A would maintain the status quo IVR reporting requirements. Under alternative 9B, the owner or operator of any vessel issued a limited access permit for tilefish must submit a tilefish catch report via the IVR system within 48 hr after offloading fish. It is anticipated that increasing the time allowed for IVR reporting from 24 hr to 48 hr would allow for tilefish catch reports to be more accurate. This action is purely administrative and is not expected to alter the amount of tilefish landings and, as such, changes in the ex-vessel price, harvest cost, and consumer or PS are not expected. No changes in enforcement cost or distributive effects are anticipated as a result of this action.

Recreational Fishing Sector

1. Recreational Charter/Party Vessel Permits and Reporting Requirements

The No-Action alternative would not implement permit and reporting requirements for Charter/Party permitted vessels and operators. Alternative 12B would require that Charter/Party vessels fishing for tilefish obtain a Federal open access Charter/Party permit, and require that any vessel fishing under a Charter/Party permit have on board at least one person who holds an operator permit. According to NMFS data, 32 vessels landed tilefish between 1996 and 2005. It is expected that all of these vessels will apply for a Charter/Party permit in order to maintain flexibility in their operations. The implementation of this alternative would likely increase the understanding of the recreational participation in the fishery, and would assist managers to better assess fishing trends. This action is purely administrative and is not expected to change current participation of charter/party vessels in the tilefish fishery.

2. Recreational Bag-Size Limits

None of the regulations that implemented the initial FMP are specific to the recreational sector. When the FMP was first developed, the recreational participation in this fishery was small. As such, recreational management measures were not included in the FMP. A small recreational fishery briefly occurred during the 1970's, but subsequent recreational catches appear to be small. However, according to anecdotal information, there appears to have been an increase in the level of recreational fishing effort on this species in recent years. Nonetheless, VTR data indicate that, between 1996 and 2005, the number of tilefish caught by charter/party vessels from Maine through Virginia was low, averaging 444 fish per year. In addition, Marine Recreational Fisheries Statistics Survey data indicate that, between 2000 and 2005, only two trips reported tilefish as the primary target species (see section 6.1 of Amendment 1). Under the status quo alternative, no recreational bag-size limits in the tilefish fishery would be implemented. The preferred alternative would set the tilefish recreational bag limit at the upper range of the mean effort seen between 1996 and 2005. Other alternatives would establish a recreational bag limit at lower levels. As described within Amendment 1, recreational fishermen typically fish for tilefish when tuna fishing, especially during the summer months. Fishers are highly unlikely to catch tilefish while targeting tuna on tuna fishing trips. However, these boats may fish for tilefish at any time during a tuna trip (i.e., when the tuna limit has been reached, on the way out or in from a tuna fishing trip, or at any time when tuna fishing is slow). While fishing for tuna, recreational fishermen may trawl using rod and reel (including downriggers), or use handline gear. Rod and reel is the typical gear used in the recreational tilefish fishery. There is very little information available to empirically estimate how sensitive the affected anglers might be to the proposed recreational bag-size limits. Even though the proposed management measures could affect the demand for trips for tilefish, it is not expected that they would negatively affect the overall number of recreational fishing trips in the North and Mid-Atlantic regions. Therefore, the demand for fishing trips should remain relatively unaffected.

Monitoring of Tilefish Landings

Improve Monitoring of Tilefish Landings Caught in the Mid-Atlantic Region

Currently, vessels that hold both a Federal Tilefish and Snapper/Grouper permit could potentially fish for golden tilefish, inside and outside of the Tilefish Management Unit, on the same trip. Under the status-quo alternative, if tilefish landings are not reported accurately, with catch location, the recovery of the stock could be adversely affected. The preferred alternative under Amendment 1 would not be expected to change fishing methods or practices. However, they would allow for better reporting and accounting for catches and landings of golden tilefish in the management unit. This action is not expected to effect tilefish landings and, as such, changes in the ex-vessel price, harvest cost, and consumer or PS are not expected. No changes in enforcement cost or distributive effects are anticipated as a result of this action.

Framework Adjustment

Framework Adjustment Process

The No-Action alternative would maintain the status quo and, as such, the list of management measures that can be added or modified through a streamlined public review process would not change. The preferred alternative would allow for an expansion to the list of management measures that have been identified in the FMP that can be implemented or adjusted at any time. The recreational management measures that are proposed to be added to the list include: (1) Recreational bag-size limit, fish size limit, and seasons; and (2) recreational gear restrictions or prohibitions. Measures to facilitate the periodic review of the commercial IFQ program include: (1) Capacity reduction; (2) safety at sea issues; (3) transferability rules; (4) ownership concentration caps; (5) permit and reporting requirements; and (6) fee and cost-recovery issues. The inclusion of these management measures to the list of measures that can be addressed by the framework adjustment process would incorporate into the FMP mechanisms to control and address potential future increases in tilefish recreational landings and/or modifications to the IFQ program. This action is purely administrative and is not expected to alter the tilefish landings and, as such, changes in the ex-vessel price, harvest cost, and consumer or PS are not expected. No changes in enforcement cost or distributive effects are anticipated as a result of this action.

EFH Measures

1. EFH Designations

Under the No-Action alternative, the current EFH designations for tilefish life stages would be maintained as described in Amendment 1; therefore, this alternative is expected to have neutral economic impacts. The impacts of designating EFH for tilefish relative to having no designation was evaluated in the original FMP; however, this no action alternative only proposes to maintain the currently established EFH designations. If the preferred alternative (16B) were implemented, the EFH designations for tilefish would be redefined as described in section 5.16.B of Amendment 1. Impacts of the preferred alternative on the social and economic aspects of human

communities are expected to be positive relative to the No-Action alternative. Under the preferred alternative, the EFH designation would be revised to be more narrowly defined in terms of substrate type, depth, and temperature ranges, and would include more detailed descriptions of essential substrates for juvenile and adult tilefish. The preferred alternative would allow for more effective consultations on oversight of vulnerable EFH areas when compared to the current definitions. This action is not expected to affect tilefish landings and, as such, changes in the ex-vessel price, harvest cost, and consumer or PS are not expected. No changes in enforcement cost or distributive effects are anticipated as a result of this action.

2. HAPC Designation

The Amendment 1 document analyzes eight possible HAPC designations, based on individual alternatives or combinations of alternatives. Alternative 17A, the no-action alternative, would maintain the existing HAPC designation established under the FMP. Alternative 17B would modify the current HAPC designation for juvenile and adult tilefish, and redefine HAPC for juvenile and adult tilefish to be clay outcrop/pueblo village habitats in an area of the outer continental shelf and slope bounded by 70°00 W. long. and 39°00 N. lat., in depths of 100 to 300 m (328 to 984 ft). The preferred alternative would define HAPC for juvenile and adult tilefish to be clay outcrop/pueblo village habitats in an area of the outer continental shelf and slope within Norfolk, Veatch, Lydonia, and Oceanographer Canyons at the depth range specified for tilefish EFH (100 to 300 m (328 to 984 ft)). Alternatives 17C and 17D are smaller areas designated as HAPC relative to the No Action alternative or Alternative 17B. The potential impacts on the social and economic aspects of human communities from the action alternatives are expected to be positive relative to the no action alternative, since they could result in less restricted human activity when compared to the larger status quo HAPC area. In addition, the two canyon HAPC alternatives are much smaller than either Alternative 17A or 17B and include a higher proportion of deep, steep bottom areas on the edge of the continental shelf that are not as accessible to fishing as the shallower, flatter areas on the shelf that make up most of the Alternative 17A and 17B areas. This action is not expected to affect tilefish landings and, as such, changes in the ex-vessel price, harvest cost, and consumer or PS are not expected. No changes in enforcement cost or distributive effects are anticipated as a result of this action.

3. Measures to Reduce Gear Impacts on EFH

Under the preferred alternative, the Council had to decide which canyons to select for GRA designation. The Council could have selected to close one, some, or all of the 13 deep-water canyons to bottom otter trawling. The Council selected to close a portion of Norfolk, Veatch, Lydonia, and Oceanographer Canyons to bottom otter trawling to reduce gear impacts on juvenile and adult tilefish EFH. The associated potential changes in ex-vessel revenues associated with each of the evaluated GRAs are discussed in detail in sections 7.18.5 and 7.18.6 of Amendment 1. The status quo alternative is expected to have neutral short-term social and economic impacts, as the current status quo would be maintained. However, there could potentially be longer-term negative socioeconomic impacts if the failure to establish a GRA prevents potential future increases in the productivity and associated fishery yields of managed resources in the region. Alternative 18B would implement a closure to protect tilefish habitat between 70°00′W. long. and 39°00′N. lat. on the outer continental shelf/slope from bottom otter trawling. This area was considered for closure because of the extensive bottom trawl activity identified in the overlap analysis (Appendix E of Amendment 1) in these two statistical areas. This alternative is expected to have significant short-term negative socioeconomic impacts based on an examination of 2005 VTR data within the proposed closure area. It should be noted that, because the data are self-reported, there could be errors in the spatial information or reported data resulting from inaccurate reporting, unclear handwriting, or errors in transcribing the written information. Potential losses in ex-vessel revenue could be as high as $18.3 million (when compared to 2005 fishing opportunities) if the current EFH designation is not changed. Economic losses would potentially be slightly lower under the preferred EFH alternative (Alternative 16B). The combined potential changes in ex-vessel revenues associated with the implementation of GRAs in Norfolk, Veatch, Lydonia, and Oceanographer Canyons would be approximately $210,000. As discussed in Amendment 1, it is likely that errors in these estimates exist, because the VTR data are not collected at an appropriate level of detail for this type of analysis. Nevertheless, these values provide an estimate of the fishing activity in the proposed GRAs. It is expected that localized reductions in revenues due to the proposed GRAs are likely to be partially or completely recouped due to an increase in effort outside of the closed area. This effort displacement could, however, increase operating costs for fishermen who are forced to fish in other areas. As such, the lost revenue estimates represent a worst case prediction of the anticipated loss in ex-vessel revenues that would result from closing this area to bottom otter trawling. This action is not expected to alter the amount of tilefish landings; therefore, changes in the ex-vessel price, harvest cost, and consumer or PS are not expected. No changes in enforcement cost or distributive effects are anticipated as a result of this action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 12, 2009.

John Oliver,

Deputy Assistant Administrator For Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.2, the definitions for ''Bottom-tending mobile gear,'' ''Lessee,'' and ''Lessor'' are revised, and ''Interest in an IFQ allocation'' is added to read as follows:

§ 648.2 Definitions.

* * * * *

Bottom-tending mobile gear, with respect to the NE multispecies and tilefish fisheries, means gear in contact with the ocean bottom, and towed from a vessel, which is moved through the water during fishing in order to capture fish, and includes otter trawls, beam trawls, hydraulic dredges, non-hydraulic dredges, and seines (with the exception of a purse seine).

* * * * *

Interest in an IFQ allocation means: An allocation permanently or temporarily held by an individual; or by a company in which the individual is an owner, part owner, officer, shareholder, or partner; or by an immediate family member.

* * * * *

Lessee means: (1) A vessel owner who receives temporarily transferred NE multispecies DAS from another vessel through the DAS Leasing Program specified at § 648.82(k); or

(2) A person or entity eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a), who receives temporarily transferred tilefish IFQ Allocation, as specified at § 648.291(e)(1).

* * * * *

Lessor means: (1) A vessel owner who temporarily transfers NE multispecies DAS to another vessel through the DAS Leasing Program specified at § 648.82(k); or

(2) An IFQ Allocation permit holder who temporarily transfers tilefish IFQ Allocation, as specified at § 648.291(e)(1).

* * * * *

3. In § 648.4, paragraph (a)(12) is revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(12) *Tilefish vessels.* Any vessel of the United States must have been issued, and carry on board, a valid permit to fish for, possess, or land tilefish, in or from the Tilefish Management Unit, and must fish under the authorization of a tilefish IFQ Allocation permit, issued pursuant to § 648.291, to possess, or land tilefish in excess of the trip limit as specified under § 648.293.

(i) *Party and charter vessel permits.* Any party or charter vessel must have been issued a Federal Charter/Party vessel permit under this part to fish for tilefish, if it carries passengers for hire. Recreational fisherman fishing onboard such a vessel must observe the recreational possession limits as specified at § 648.295 and the prohibition on sale.

(ii) [Reserved]

* * * * *

4. In § 648.7, paragraph (b)(2)(ii) is revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(2) * * *

(ii) *Tilefish vessel owners or operators.* The owner or operator of any vessel fishing pursuant to a tilefish IFQ Allocation permit, as described in § 648.291(a), must submit a tilefish catch report by using the IVR system within 48 hr after returning to port and offloading. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, trip during which tilefish are caught, pounds landed, VTR pre-printed serial number, and the federal dealer number for the dealer who purchases the tilefish. IVR reporting does not exempt the owner or operator from other applicable reporting requirements of this section.

* * * * *

5. In § 648.14, paragraph (u) is revised as follows:

§ 648.14 Prohibitions.

* * * * *

(u) *Golden tilefish.* It is unlawful for any person owning or operating a vessel to do any of the following:

(1) *Permit requirements*—(i) *Operator permit.* Operate, or act as an operator of, a vessel with a tilefish permit, or a vessel fishing for or possessing tilefish in or from the Tilefish Management Unit, unless the operator has been issued, and is in possession of, a valid operator permit.

(ii) *Dealer permit.* Purchase, possess, receive for a commercial purpose; or attempt to purchase, possess, or receive for a commercial purpose; as a dealer, or in the capacity of a dealer, tilefish that were harvested in or from the Tilefish Management Unit, without having been issued, and in possession of, a valid tilefish dealer permit.

(iii) *Vessel permit.* Sell, barter, trade, or otherwise transfer from a vessel; or attempt to sell, barter, trade, or otherwise transfer from a vessel; for a commercial purpose, other than solely for transport on land, any tilefish, unless the vessel has been issued a tilefish permit, or unless the tilefish were harvested by a vessel without a tilefish permit that fished exclusively in state waters.

(2) *Possession and landing.* (i) Fish for, possess, retain, or land tilefish, unless:

(A) The tilefish are being fished for or were harvested in or from the Tilefish Management Unit by a vessel holding a valid tilefish permit under this part, and the operator on board such vessel has been issued an operator permit that is on board the vessel.

(B) The tilefish were harvested by a vessel that has not been issued a tilefish permit and that was fishing exclusively in state waters.

(C) The tilefish were harvested in or from the Tilefish Management Unit by a vessel, other than a Party/Charter vessel, that is engaged in recreational fishing.

(ii) Land or possess tilefish harvested in or from the Tilefish Management Unit, in excess of the trip limit pursuant to § 648.293, without a valid tilefish IFQ Allocation permit, as specified in § 648.291(a).

(iii) Land tilefish harvested in or from the Tilefish Management Unit in excess of that authorized under a tilefish IFQ Allocation permit as described at § 648.291(a).

(iv) Operate a vessel that takes recreational fishermen for hire to fish for tilefish in the Tilefish Management Unit without a valid tilefish Charter/Party permit, as required in § 648.4(a)(12)(i).

(v) Fish for golden tilefish inside and outside of the Tilefish Management Unit, as defined in § 648.2, on the same trip.

(vi) Discard tilefish harvested in or from the Tilefish Management Unit, as defined in § 648.2, unless participating in recreational fishing, as defined in § 648.2.

(3) *Transfer and purchase.* (i) Purchase, possess, or receive for a commercial purpose, other than solely for transport on land; or attempt to purchase, possess, or receive for a commercial purpose, other than solely for transport on land; tilefish caught by a vessel without a tilefish permit, unless the tilefish were harvested by a vessel without a tilefish permit that fished exclusively in state waters.

(ii) Purchase or otherwise receive for commercial purposes tilefish caught in the EEZ from outside the Tilefish Management Unit, as described in § 648.2, unless otherwise permitted under 50 CFR part 622.

(4) *Presumption.* For purposes of this part, the following presumption applies: All tilefish retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested in or from the Tilefish Management Unit, unless the preponderance of all submitted evidence demonstrates that such tilefish were harvested by a vessel fishing exclusively in state waters.

* * * * *

6. In § 648.290, the section heading, and paragraphs (b) and (c) are revised to read as follows:

§ 648.290 Individual fishing quota program and other restrictions.

* * * * *

(b) *TAL allocation.* For each fishing year, up to 3 percent of the TAL may be set aside for the purpose of funding research. Once a research TAC, if any, is set aside, the TAL will first be reduced by 5 percent to adjust for the incidental catch. The remaining TAL will, for the first year of the Individual Fishing Quota Program (IFQ TAL), be allocated as follows: Full-time tier Category 1, 66 percent; Full-time tier Category 2, 15 percent; Part-time, 19 percent, to allow for the calculation of IFQ allocations and the issuance of IFQ

Allocation permits pursuant to § 648.291.

(c) *Adjustments to the quota.* If the incidental harvest exceeds 5 percent of the TAL for a given fishing year, the incidental trip limit of 300 lb (138 kg) may be reduced in the following fishing year. In the first year of the IFQ program only, any overages from the prior limited access category fishery will be deducted from the appropriate category, prior to the initial distribution of IFQ allocation as specified at § 648.291(c). If an adjustment is required, a notification of adjustment of the quota will be published in the **Federal Register**.

* * * * *

7. Section 648.291 is revised to read as follows:

§ 648.291 Individual fishing quota.

(a) *Individual fishing quota (IFQ) allocation permits.* After adjustments for incidental catch, research set asides, and overages, as appropriate, during the first year of the IFQ Program, the Regional Administrator shall divide the Category quotas specified pursuant to § 648.290(b), among the owners of vessels that meet the qualification criteria specified in paragraphs (a)(1)(i), and (ii) of this section. Initial allocations shall be made in accordance with paragraph (b)(1)(i) of this section, in the form of an IFQ Allocation permit issued to a qualifying vessel owner, who files a complete application, specifying the allocation percentage of the IFQ TAL that the owner is entitled to harvest. This allocation percentage shall be calculated pursuant to paragraph (c) of this section and converted annually into pounds of tilefish. Amounts of IFQ of 0.5 lb (0.23 kg) or smaller created by this allocation shall be rounded downward to the nearest whole number, and amounts of IFQ greater than 0.5 lb (0.23 kg) created by this division shall be rounded upward to the nearest whole number, so that IFQ allocations are specified in whole pounds. Allocations in subsequent years shall be made by applying the allocation percentages that exist on September 1 of a given fishing year to the IFQ TAL pursuant to § 648.290(b), subject to any deductions for overages pursuant to paragraph (f) of this section. These allocations shall be issued in the form of an annual IFQ Allocation permit.

(1) *Qualifying criteria.* (i) A vessel owner that was issued a valid Federal fisheries permit during the 2005 permit year (May 1 to April 30) that reported landings of tilefish from 2001 through 2005 that constituted at least 0.5 percent of the quota for the tilefish Category for which it was permitted; or

(ii) A person or entity that holds a valid confirmation of permit history (CPH) that meets the criteria in paragraph (a)(1)(i) of this section.

(2) [Reserved]

(b) *Application*—(1) *General.* Applicants for a permit under this section must submit a completed application on an appropriate form obtained from NMFS. The application must be filled out completely and signed by the applicant. Each application must include a declaration of all interest in IFQ allocation, as defined in § 648.2. The Regional Administrator will notify the applicant of any deficiency in the application.

(i) *Initial application.* An applicant shall submit an application for an initial IFQ Allocation permit no later than 6 months after the effective date of this regulation.

(ii) *Renewal applications.* Applications to renew an IFQ Allocation permit must be received by September 15 to be processed in time for the start of the November 1 fishing year. Renewal applications received after this date may not be approved and a new permit may not be issued before the start of the next fishing year. An IFQ Allocation permit holder must renew his/her IFQ Allocation permit on an annual basis by submitting an application for such permit prior to the end of the fishing year for which the permit is required.

(2) *Issuance.* Except as provided in subpart D of 15 CFR part 904, and provided an application for such permit is submitted by September 15, as specified in paragraph (b)(1)(ii) of this section, NMFS shall issue annual IFQ Allocation permits on or before October 31 to those who hold permanent allocation, as of September 1 of the current fishing year. During the period between September 1 and October 31 transfer of IFQ is not permitted, as described in paragraph (e)(4) of this section. The IFQ Allocation permit shall specify the allocation percentage of the IFQ TAL which the IFQ permit holder is authorized to harvest.

(3) *Duration.* An annual IFQ Allocation permit is valid until October 31 of each fishing year unless it is suspended, modified, or revoked pursuant to 15 CFR part 904, or revised due to a transfer of all or part of the allocation percentage under paragraph (e) of this section.

(4) *Alteration.* An annual IFQ Allocation permit that is altered, erased, or mutilated is invalid.

(5) *Replacement.* The Regional Administrator may issue a replacement permit upon written application of the annual IFQ Allocation permit holder.

(6) *Transfer.* The annual IFQ Allocation permit is valid only for the person to whom it is issued. All or part of the allocation specified in the IFQ Allocation permit may be transferred in accordance with paragraph (e) of this section.

(7) *Abandonment or voluntary relinquishment.* Any IFQ Allocation permit which is voluntarily relinquished to the Regional Administrator, or deemed to have been voluntarily relinquished for failure to pay a recoverable cost fee, in accordance with the requirements specified in paragraph (h)(2) of this section, or for failure to renew in accordance with paragraph (b)(1)(ii) of this section, shall not be reissued or renewed in a subsequent year.

(c) *Initial allocation formulas*—(1) *General.* An individual fishing quota of tilefish shall be calculated as a percentage of the IFQ TAL based on the following formulas:

(i) *Full-time vessels.* An owner of a vessel that held a Full-time (Category A or B; 66 percent of the adjusted TAL for Category A, and 15 percent of the adjusted TAL for Category B) limited access permit in 2005 shall receive an allocation based on the division of the vessel's average landings from 2001 through 2005 by the total average landings in their respective Category during this same time period to derive a percentage. This percentage shall then be applied to the adjusted TAL to derive an IFQ allocation percentage that shall also be converted to an amount in pounds. If the landings of all qualified vessels yield percentages that are less than the allocation of the entire adjusted quota, the remainder shall be distributed among the qualified vessels based on the ratio of their respective percentages. Vessel landings during this time period will be calculated using NMFS interactive voice reporting (IVR) data for 2002 through 2005, and NMFS dealer data submitted for 2001 (excluding landings reported from May 15, 2003, through May 31, 2004, as a result of the *Hadaja* v. *Evans lawsuit*).

(ii) *Part-time vessels.* An owner of a vessel that held a Part-time (Category C) limited access permit in 2005 shall receive an allocation based on the equal division of the Category C quota (19 percent of the adjusted TAL) among vessels that had landings during the 2001 through 2005 time period, to derive an IFQ allocation percentage. This percentage shall also be converted to an amount in pounds. Vessel landings during this time period will be calculated using NMFS interactive voice reporting (IVR) data for 2002 through 2005, and NMFS dealer data submitted

for 2001 (excluding landings reported from May 15, 2003, through May 31, 2004, as a result of the *Hadaja* v. *Evans* lawsuit).

(2) [Reserved]

(d) *Appeal of denial of permit*—(1) *General*. Any applicant denied an IFQ Allocation permit may appeal to the Regional Administrator within 30 days of the notice of denial. Any such appeal shall be in writing. The only ground for appeal is that the Regional Administrator erred in concluding that the vessel did not meet the criteria in this section. The appeal must set forth the basis for the applicant's belief that the decision of the Regional Administrator was made in error.

(2) *Appeal review*. The Regional Administrator shall appoint a designee who shall make the initial decision on the appeal. The appellant may appeal the initial decision to the Regional Administrator by submitting a request in writing within 30 days of the notice of the initial decision. If requested, the appeal may be presented at a hearing before a hearing officer appointed by the Regional Administrator. If the appellant does not request a review of the initial decision within 30 days, the initial decision is the final administrative decision of the Department of Commerce. The hearing officer shall make findings and a recommendation based upon the administrative record, including that generated during any hearing, pertaining to the application and appeal within NMFS to the Regional Administrator, which shall be advisory only. Upon receiving the findings and the recommendations from the hearing officer, the Regional Administrator shall issue a final decision on the appeal. The Regional Administrator's decision is the final administrative decision of the Department of Commerce.

(3) *Status of vessels pending appeal*. Any applicant denied an IFQ Allocation permit may request the issuance of a letter of authorization (LOA) from the Regional Administrator to continue to fish for tilefish after the effective date of the final regulations, pending the resolution of the relevant appeal, if his/her vessel was issued a valid tilefish permit in 2008. This LOA would allow a vessel to continue to fish for tilefish. If vessels fishing under an LOA are projected to land a portion of the adjusted TAL that NMFS determines would unreasonably diminish the allocations of IFQ Allocation permit holders, the Regional Administrator will impose a trip limit to reduce the landings of vessels fishing under an LOA. If the appeal is finally denied, the LOA will become invalid 5 days after the receipt of the notice of final denial from the Regional Administrator.

(4) *LOA reserve*. During the first year of the IFQ program, the Regional Administrator will reserve 15–percent of the IFQ TAL, prior to initial distribution of IFQ allocations, to allow for continued fishing under an LOA, as specified in paragraph (d)(3) of this section, pending resolution of the relevant appeal. Any portion of the 15–percent reserve remaining after the appeals process has been completed will be distributed to IFQ Allocation permit holders based on their allocation percentages as soon as possible during that fishing year. If vessels fishing under LOAs, pending resolution of the appeals process, are projected to harvest an amount of tilefish in excess of the 15 percent reserve, the allocations for all IFQ Allocation permit holders will be reduced proportionately during that fishing year, to increase the amount of the reserve determined to be necessary. If an IFQ Allocation permit holder has no allocation remaining at the time of the proportionate reduction of all IFQ allocations, this reduction will constitute an overage and will be deducted from the IFQ Allocation permit holder's subsequent fishing year allocation.

(e) *Transferring IFQ allocations*—(1) *Temporary transfers*. Unless otherwise restricted by the provisions in paragraph (e)(3) of this section, the owner of an IFQ allocation may transfer the entire IFQ allocation, or a portion of the IFQ allocation, to any person or entity eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a). Temporary IFQ allocation transfers shall be effective only for the fishing year in which the temporary transfer is requested and processed, unless the applicant specifically requests that the transfer be processed for the subsequent fishing year. The Regional Administrator has final approval authority for all temporary IFQ allocation transfer requests. The approval of a temporary transfer may be rescinded, if the Regional Administrator finds that an emergency has rendered the lessee unable to fish for the transferred IFQ allocation, but only if none of the transferred allocation has been landed.

(2) *Permanent transfers*. Unless otherwise restricted by the provisions in paragraph (e)(3) of this section, an owner of an IFQ allocation may permanently transfer the IFQ allocation to any person or entity eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a). The Regional Administrator has final approval authority for all permanent IFQ allocation transfer requests.

(3) *IFQ allocation transfer restrictions*— (i) If IFQ allocation is temporarily transferred to any eligible entity, it may not be transferred again within the same fishing year.

(ii) A transfer of IFQ will not be approved by the Regional Administrator if it would result in an entity owning, or having an interest in, a percentage of IFQ allocation exceeding 49 percent of the total tilefish adjusted TAL.

(iii) If the owner of an IFQ allocation leases additional quota from another IFQ Allocation permit holder, any landings associated with this transferred quota would be deducted before his/her base allocation, if any exists, for the purpose of calculating the appropriate cost-recovery fee, as described in paragraph (h) of this section.

(4) *Application for an IFQ allocation transfer*. Any IFQ Allocation permit holder applying for either permanent or temporary transfer of IFQ allocation must submit a completed IFQ Allocation Transfer Form, available from NMFS. The IFQ Allocation Transfer Form must be submitted to the NMFS Northeast Regional Office at least 30 days before the date on which the applicant desires to have the IFQ allocation transfer effective. The Regional Administrator shall notify the applicants of any deficiency in the application pursuant to this section. Applications for IFQ allocation transfers must be received by September 1 to be processed for the current fishing year.

(i) *Application information requirements*. An application to transfer IFQ allocation must include the following information: The type of transfer (either temporary or permanent), the signature of both parties involved, the price paid for the transfer, proof of eligibility to receive IFQ allocation, the amount of allocation to be transferred, and a declaration, by IFQ Allocation permit number, of all the IFQ allocations that the person or entity receiving the IFQ allocation has an interest in. The person or entity receiving the IFQ allocation must indicate the permit numbers of all federally permitted vessels that will possess or land their IFQ allocation. Information obtained from the IFQ Allocation Transfer Form is confidential pursuant to 16 U.S.C. 1881a.

(ii) *Approval of IFQ transfer applications*. Unless an application to transfer IFQ is denied according to paragraph (e)(4)(iii) of this section, the Regional Administrator shall issue confirmation of application approval in the form of a new or updated IFQ Allocation permit to the parties

involved in the transfer within 30 days of receipt of a completed application.

(iii) *Denial of transfer application.* The Regional Administrator may reject an application to transfer IFQ allocation for the following reasons: The application is incomplete; the transferor does not possess a valid tilefish IFQ Allocation permit; the transferor's or transferee's vessel or tilefish IFQ Allocation permit has been sanctioned, pursuant to an enforcement proceeding under 15 CFR part 904; the transfer will result in the transferee having a tilefish IFQ Allocation that exceeds 49 percent of the adjusted TAL allocated to IFQ Allocation permit holders; the transfer is to a person or entity that is not eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a); or any other failure to meet the requirements of this subpart. Upon denial of an application to transfer IFQ allocation, the Regional Administrator shall send a letter to the applicant describing the reason(s) for the denial. The decision by the Regional Administrator is the final decision of the Department of Commerce; there is no opportunity for an administrative appeal.

(f) *IFQ allocation overages.* Any IFQ allocation that is exceeded, including amounts of tilefish landed by a lessee in excess of a temporary transfer of IFQ allocation, will be reduced by the amount of the overage in the subsequent fishing year(s). If an IFQ allocation overage is not deducted from the appropriate allocation before the IFQ Allocation permit is issued for the subsequent fishing year, a revised IFQ Allocation permit reflecting the deduction of the overage shall be issued by NMFS. If the allocation can not be reduced in the subsequent fishing year because the full allocation had already been landed or transferred, the IFQ Allocation permit would indicate a reduced allocation for the amount of the overage in the next fishing year.

(g) *IFQ allocation acquisition restriction.* No person or entity may acquire more than 49 percent of the annual tilefish adjusted TAL, specified pursuant to § 648.290, at any point during a fishing year. For purposes of this paragraph, acquisition includes any permanent or temporary transfer of IFQ. The calculation of IFQ allocation for purposes of the restriction on acquisition includes IFQ allocation interests held by: A company in which the IFQ holder is a shareholder, officer, or partner; an immediate family member; or a company in which the IFQ holder is a part owner or partner.

(h) *IFQ cost-recovery.* A fee shall be determined as described in paragraph (h)(1) of this section, and collected to recover the costs associated with management, data collection and analysis, and enforcement of the IFQ program. A tilefish IFQ Allocation permit holder shall be responsible for paying the fee assessed by NMFS. A tilefish IFQ Allocation permit holder with a permanent allocation shall incur a cost-recovery fee, which shall be paid from the value of landings of tilefish authorized under his/her tilefish IFQ Allocation permit, including allocation that is landed under a temporary transfer of allocation. A tilefish IFQ Allocation permit holder, with a permanent allocation, shall be responsible for submitting this payment to NMFS once per year, as specified in paragraph (h)(2) of this section. For the purpose of this section, the cost-recovery billing period is defined as the full calendar year, beginning with the start of the first calendar year following the effective date of the final regulations. NMFS will create an annual IFQ allocation bill, for each cost-recovery billing period, and provide it to each IFQ Allocation permit holder. The bill will include annual information regarding the amount and value of IFQ allocation landed during the prior cost-recovery billing period, and the associated cost-recovery fees. NMFS will also create a report that will detail the costs incurred by NMFS, for the management, enforcement, and data collection and analysis associated with the IFQ allocation program during the prior cost-recovery billing period.

(1) *NMFS determination of the total annual recoverable costs of the tilefish IFQ program.* The Regional Administrator shall determine the costs associated with the management, data collection and analysis, and enforcement of the IFQ allocation program. The recoverable costs will be divided by the amount of the adjusted TAL to derive a fee cost per pound. IFQ Allocation permit holders will be assessed a fee based on the fee cost per pound times their landings in pounds. This fee shall not exceed 3 percent of the total value of tilefish landings of the IFQ Allocation permit holder. Prior to the first year of the IFQ program, NMFS will not have information needed to determine the management, data collection and analysis, and enforcement costs of the program. Therefore, during the initial cost-recovery billing period, the fee shall be set at 3 percent. If the recoverable costs are determined to be less than 3 percent, NFMS shall issue each IFQ Allocation permit holder a fee-overage credit, equal to the amount paid in excess of their portion of the recoverable cost, towards their subsequent year's fee.

(i) *Valuation of IFQ allocation.* The 3 percent limitation on cost-recovery fees shall be based on the ex-vessel value of landed allocation. The ex-vessel value for each pound of tilefish landed shall be determined from Northeast Federal dealer reports submitted to NMFS which contain the price per pound at the time of dealer purchase.

(ii) [Reserved]

(2) *Fee payment procedure.* An IFQ Allocation permit holder who has incurred a cost-recovery fee must pay the fee to NMFS within 45 days of the date of the bill. Cost-recovery payments shall be made electronically via the Federal web portal, *www.pay.gov*, or other Internet sites designated by the Regional Administrator. Instructions for electronic payment shall be available on both the payment Web site and the cost-recovery fee bill. Electronic payment options shall include payment via a credit card, as specified in the cost-recovery bill, or via direct automated clearing house (ACH) withdrawal from a designated checking account. Alternatively, payment by check may be authorized by Regional Administrator if he/she determines that electronic payment is not possible for any reason.

(3) *Payment compliance.* If the cost-recovery payment, as determined by NMFS, is not made within the time specified in paragraph (h)(2) of this section, the Regional Administrator will deny the renewal of the appropriate IFQ Allocation permit until full payment is received. If, upon preliminary review of a fee payment, the Regional Administrator determines that the IFQ Allocation permit holder has not paid the full amount due, he/she shall notify the IFQ Allocation permit holder in writing of the deficiency. NMFS shall explain the deficiency and provide the IFQ Allocation permit holder 30 days from the date of the notice either to pay the amount assessed or to provide evidence that the amount paid was correct. If the IFQ Allocation permit holder submits evidence in support of the appropriateness of his/her payment, the Regional Administrator shall determine whether there is a reasonable basis upon which to conclude that the amount of the tendered payment is correct. This determination shall be in set forth in a Final Administrative Determination (FAD) that is signed by the Regional Administrator. A FAD shall be the final decision of the Department of Commerce. If the Regional Administrator determines that the IFQ Allocation permit holder has not paid the appropriate fee, he/she shall require payment within 30 days of

the date of the FAD. If a FAD is not issued until after the start of the fishing year, the IFQ Allocation permit holder may fish until the FAD is issued, at which point the permit holder shall have 30 days to comply with the terms of the FAD or the tilefish IFQ Allocation permit shall not be issued until such terms are met. Any tilefish landed pursuant to the above authorization will count against the IFQ Allocation permit, if issued. If the Regional Administrator determines that the IFQ Allocation permit holder owes additional fees for the previous cost-recovery billing period, and the renewed IFQ Allocation permit has already been issued, the Regional Administrator shall issue a FAD. The IFQ Allocation permit holder shall have 30 days from the date of the FAD to comply with the terms of the FAD. If the IFQ Allocation permit holder does not comply with the terms of the FAD within this period, the Regional Administrator shall rescind the IFQ Allocation permit until such terms are met. If an appropriate payment is not received within 30 days of the date of a FAD, the Regional Administrator shall refer the matter to the appropriate authorities within the U.S. Department of the Treasury for purposes of collection. No permanent or temporary IFQ allocation transfers may be made to or from the allocation of an IFQ Allocation permit holder who has not complied with any FAD. If the Regional Administrator determines that the terms of a FAD have been met, the IFQ Allocation permit holder may renew the tilefish IFQ Allocation permit. If NMFS does not receive full payment of a recoverable cost fee prior to the end of the cost-recovery billing period immediately following the one for which the fee was incurred, the subject IFQ Allocation permit shall be deemed to have been voluntarily relinquished pursuant to paragraph (b)(7) of this section.

(4) *Periodic review of the IFQ program.* A formal review of the IFQ program must be conducted by the Council within 5 years of the effective date of the final regulations. Thereafter, it shall be incorporated into every scheduled Council review of the FMP (i.e., future amendments or frameworks), but no less frequently than every 7 years.

8. Section 648.292 is revised to read as follows:

§ 648.292 Closures.

(a) *EEZ closure.* If the Regional Administrator determines that the tilefish TAL will be exceeded in a given fishing year, the Regional Administrator will close the EEZ to fishing for tilefish for the remainder of the fishing year, and publish notification in the **Federal Register**.

(b) [Reserved]

9. Section 648.293 is revised to read as follows:

§ 648.293 Tilefish trip limits.

Any vessel of the United States fishing under a tilefish permit, as described at § 648.4(a)(12), is prohibited from possessing more than 300 lb (138 kg) of tilefish at any time, unless the vessel is fishing under a tilefish IFQ Allocation permit, as specified at § 648.291(a). Any tilefish landed by a vessel fishing under an IFQ Allocation permit, on a given fishing trip, count as landings under the IFQ Allocation permit.

10. Section 648.294 is added to read as follows:

§ 648.294 Framework specifications.

(a) *Within-season management action.* The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Tilefish FMP.

(1) *Specific management measures.* The following specific management measures may be implemented or adjusted at any time through the framework process:

(i) Minimum fish size,

(ii) Minimum hook size,

(iii) Closed seasons,

(iv) Closed areas,

(v) Gear restrictions or prohibitions,

(vi) Permitting restrictions,

(vii) Gear limits,

(viii) Trip limits,

(ix) Overfishing definition and related thresholds and targets,

(x) Annual specification quota setting process,

(xi) Tilefish FMP Monitoring Committee composition and process,

(xii) Description and identification of EFH,

(xiii) Fishing gear management measures that impact EFH,

(xiv) Habitat areas of particular concern,

(xv) Set-aside quotas for scientific research, and

(xvi) Changes to the Northeast Region SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, reports, and/or industry-funded observers or observer set-aside programs.

(xvii) Recreational management measures, including the bag-size limit, fish size limit, seasons, and gear restrictions or prohibitions.

(xviii) IFQ program review components, including capacity reduction, safety at sea issues, transferability rules, ownership concentration caps, permit and reporting requirements, and fee and cost-recovery issues.

(2) *Adjustment process.* If the Council determines that an adjustment to management measures is necessary to meet the goals and objectives of the FMP, it will recommend, develop, and analyze appropriate management actions over the span of at least two Council meetings. The Council will provide the public with advance notice of the availability of the recommendation, appropriate justifications and economic and biological analyses, and opportunity to comment on the proposed adjustments prior to and at the second Council meeting on that framework action. After developing management actions and receiving public comment, the Council will submit the recommendation to the Regional Administrator; the recommendation must include supporting rationale, an analysis of impacts, and a recommendation on whether to publish the management measures as a final rule.

(3) *Council recommendation.* After developing management actions and receiving public testimony, the Council will make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, it must consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(4) *Regional Administrator action.* If the Council's recommendation includes

adjustments or additions to management measures and, after reviewing the Council's recommendation and supporting information:

(i) If the Regional Administrator concurs with the Council's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the **Federal Register**.

(ii) If the Regional Administrator concurs with the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the **Federal Register**. After additional public comment, if the Regional Administrator concurs with the Council's recommendation, the measures will be issued as a final rule in the **Federal Register**.

(iii) If the Regional Administrator does not concur with the Council's recommendation, the Council will be notified in writing of the reasons for the non-concurrence.

(b) *Emergency action*. Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

11. Section 648.295 is added to read as follows:

§ 648.295 Recreational possession limit.

Any person fishing from a vessel that is not fishing under a tilefish vessel permit issued pursuant to § 648.4(a)(12), may land up to eight tilefish per trip. Anglers fishing onboard a Charter/Party vessel shall observe the recreational possession limit.

12. Section 648.296 is added to read as follows:

§ 648.296 Gear restricted areas.

No vessel of the United States may fish with bottom-tending mobile gear within the areas bounded by the following coordinates:

Canyon	N. Lat.			W. Long.		
	Degrees	Min	Seconds	Degrees	Min	Seconds
Oceanographer	40.0	29.0	50.0	68.0	10.0	30.0
	40.0	29.0	30.0	68.0	8.0	34.8
	40.0	25.0	51.6	68.0	6.0	36.0
	40.0	22.0	22.8	68.0	6.0	50.4
	40.0	19.0	40.8	68.0	4.0	48.0
	40.0	19.0	5.0	68.0	2.0	19.0
	40.0	16.0	41.0	68.0	1.0	16.0
	40.0	14.0	28.0	68.0	11.0	28.0
Lydonia	40.0	31.0	55.2	67.0	43.0	1.2
	40.0	28.0	52.0	67.0	38.0	43.0
	40.0	21.0	39.6	67.0	37.0	4.8
	40.0	21.0	4.0	67.0	43.0	1.0
	40.0	26.0	32.0	67.0	40.0	57.0
	40.0	28.0	31.0	67.0	43.0	0.0
Veatch	40.0	0.0	40.0	69.0	37.0	8.0
	40.0	0.0	41.0	69.0	35.0	25.0
	39.0	54.0	43.0	69.0	33.0	54.0
	39.0	54.0	43.0	69.0	40.0	52.0
Norfolk	37.0	5.0	50.0	74.0	45.0	34.0
	37.0	6.0	58.0	74.0	40.0	48.0
	37.0	4.0	31.0	74.0	37.0	46.0
	37.0	4.0	1.0	74.0	33.0	50.0
	36.0	58.0	37.0	74.0	36.0	58.0
	37.0	4.0	26.0	74.0	41.0	2.0

[FR Doc. E9–11540 Filed 5–15–09; 8:45 am]
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Notices

Federal Register
Vol. 74, No. 94
Monday, May 18, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 13, 2009.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Development

Title: Rural Empowerment Zones and Enterprise Communities.

OMB Control Number: 0570–0027.

Summary of Collection: The Community Renewal Tax Relief Act of 2000 extends the duration for all Empowerment Zone through December 2009. The Rural Empowerment Zones and Enterprise Communities program (EZ/EC) provides economically depressed rural areas and communities with opportunities for growth and revitalization. USDA has designated 45 Champion communities from the EZ/EC applicant communities that have agreed to implement their strategic plans in accordance with the principles of the program and report regularly on their progress.

Need and Use of the Information: Periodic reviews provide the basis for USDA to continue or revoke a designation during the life of the federal program. These reports provide the progress on each project that the designee has specified in their implementation plans. A warning letter maybe sent to recipients who have been regarded as noncompliance or have made insufficient progress in implementing the strategic plan.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 67.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,456.

Rural Business-Cooperative Service

Title: 1890 Land Grant Institutions: Rural Entrepreneurial Program Outreach Initiative.

OMB Control Number: 0570–0041.

Summary of Collection: Rural Business-Cooperative Service's mission is to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance and creating effective strategies for rural development. Funding has been allocated to support the Outreach Initiative developed to help future entrepreneurs and businesses in rural communities that have the most economic need. Funds are awarded on a competitive basis using specific selection criteria.

Need and Use of the Information: The information collected will be used to determine (1) eligibility; (2) the specific purpose for which the funds will be utilized; (3) time frames or dates by which activities surrounding the use of funds will be accomplished; (4) feasibility of the project; (5) applicants' experience in managing similar activities; and (6) the effectiveness and innovation used to address critical issues vital to the development and sustainability of businesses. Without this information there would be no basis on which to award funds.

Description of Respondents: Business or other for-profit; farms; State, Local or Tribal Government.

Number of Respondents: 18.

Frequency of Responses: Reporting: Quarterly.

Total Burden Hours: 615.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E9–11544 Filed 5–15–09; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV 09–377]

Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service.

ACTION: Notice of Reestablishment of the U.S. Department of Agriculture (USDA) Fruit and Vegetable Industry Advisory Committee and a Request for Nominations.

SUMMARY: The USDA intends to reestablish the Fruit and Vegetable Industry Advisory Committee (Committee). The purpose of the Committee is to examine the full spectrum of issues faced by the fruit and vegetable industry and provide suggestions and ideas to the Secretary of Agriculture on how USDA can tailor its programs to better meet the fruit and vegetable industry's needs. USDA also seeks nominations of individuals to be considered for selection as Committee members.

DATES: Written nominations must be received on or before July 1, 2009.

ADDRESSES: Nominations should be sent to Robert C. Keeney, Deputy

Administrator, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 2077–S, Stop 0235, Washington, DC 20250–0235; Facsimile: (202) 720–0016. E-mail: *robert.keeney@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Pamela Stanziani, Designated Federal Official; Phone: (202) 690–0182; E-mail: *Pamela.stanziani@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture intends to reestablish the Fruit and Vegetable Industry Advisory Committee for two years. The purpose of the Committee is to examine the full spectrum of issues faced by the fruit and vegetable industry and provide suggestions and ideas to the Secretary on how USDA can tailor its programs to better meet the fruit and vegetable industry's needs. The Deputy Administrator of the Agricultural Marketing Service's Fruit and Vegetable Programs will serve as the Committee's Executive Secretary. Representatives from USDA mission areas and agencies affecting the fruit and vegetable industry will be called upon to participate in the Committee's meetings as determined by the Committee Chairperson.

Industry members will be appointed by the Secretary of Agriculture and serve 2-year terms. Membership will consist of up to twenty-five (25) members who represent the fruit and vegetable industry and will include individuals representing fruit and vegetable growers/shippers, wholesalers, brokers, retailers, processors, fresh cut processors, foodservice suppliers, state agencies involved in organic and non-organic fresh fruits and vegetables at local, regional and national levels, state departments of agriculture, and trade associations. The members of the reestablished Committee will elect the Chairperson and Vice Chairperson of the Committee. In absence of the Chairperson, the Vice-Chairperson will act in the Chairperson's stead.

The Secretary of Agriculture invites those individuals, organizations, and groups affiliated with the categories listed above to nominate individuals for membership on the reestablished Committee. Nominations should describe and document the proposed member's qualifications for membership to the Committee, and list their name, title, address, telephone, and fax number. The Secretary of Agriculture seeks a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its programs to meet the fruit and vegetable industry's needs.

Individuals who are nominated will receive necessary forms from USDA for membership. The biographical information and clearance forms must be completed and returned to USDA within 10 working days of notification, to expedite the clearance process that is required before selection of Committee members by the Secretary of Agriculture.

Equal opportunity practices will be followed in all appointments to the Committee in accordance with USDA policies. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, persons with disabilities, and limited resource agriculture producers.

Dated: May 12, 2009.

Robert C. Keeney,

Acting Associate Administrator.

[FR Doc. E9–11494 Filed 5–15–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Trademark Petitions

ACTION: New collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on this new information collection, as required by the Paperwork Reduction Act of 1955, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 17, 2009.

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

- *E-mail: Susan.Fawcett@uspto.gov.* Include ''0651–00XX Trademark Petitions collection comment'' in the subject line of the message.
- *Fax:* 571–273–0112, marked to the attention of Susan K. Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Administrative Management Group, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://ww.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Janis Long, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, by telephone at 571–272–9573, or by e-mail at *Janis.Long@uspto.gov.*

SUPPLEMENTARY INFORMATION

I. Abstract

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 *et seq.* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO. Individuals and businesses may also submit various communications to the USPTO, including letters of protest and requests to make special.

A letter of protest is an informal procedure whereby third parties who object to the registration of a mark in a pending application may submit evidence relevant to the registrability of the mark to the attention of the USPTO. A letter of protest should include an explanation of which application is being protested and relevant evidence to support the protest. A request to make special may be submitted where an applicant's prior registration was cancelled due to the inadvertent failure to file a post registration maintenance document and should include an explanation of why special action is appropriate. The USPTO is proposing to include these two items in the inventory at this time because of a new method of submission that would standardize some formatting involving the electronic collection of this information. Both of these items are covered under 15 U.S.C. 1051.

II. Method of Collection

In order to provide filers with many of the benefits of electronic filing for a submission where a true electronic form does not currently exist within the Trademark Electronic Application System (TEAS), the USPTO is creating a new form of submission in a ''global'' format. This new method of submission will allow the user to identify the type of document being filed by selecting from a drop-down list and then

uploading a document in either the JPG or PDF format. Applicants may also submit the information in paper form by mail, fax or hand delivery.

III. Data

OMB Number: 0651–00xx.

Form Number: None.

Type of Review: New information collection.

Affected Public: Primarily business or other for-profit organizations.

Estimated Number of Respondents: 953 per year.

Estimated Time per Response: The USPTO estimates that it will take approximately 30 minutes (0.50 hours) to 1 hour to gather the necessary information, create the document, and submit the completed request, depending on whether the information is submitted electronically or on paper.

Estimated Total Annual Respondent Burden Hours: 862 hours per year.

Estimated Total Annual Respondent Cost Burden: $267,220. The USPTO believes that associate attorneys will complete the information in this collection. The professional hourly rate for associate attorneys in private firms is $310. This is a fully-loaded hourly rate. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately $267,220 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
TEAS Letter of Protest	50 minutes	463	384
Letter of Protest	1 hour	462	462
TEAS Request to Make Special	30 minutes	14	7
Request to Make Special	40 minutes	14	9
Total		953	862

Estimated Total Annual (Non-hour) Respondent Cost Burden: $209. There are no capital start-up, operation, maintenance or record keeping costs, nor are there filing fees associated with this information collection.

Customers incur postage costs when submitting non-electronic information to the USPTO by mail through the United States Postal Service. The USPTO estimates that the majority of submissions for these paper forms are made via first class mail at a cost of 44 cents per submission. Therefore, the total estimated postage cost for this collection is $209 (476 responses x $0.44).

IV. Request for Comments

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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Administrative Management Group.

[FR Doc. E9–11534 Filed 5–15–09; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 87–8A001]

Export Trade Certificate of Review

ACTION: Notice of Issuance (#87–8A001) of an Amended Export Trade Certificate of Review Issued to Independent Film and Television Alliance (formerly ''American Film Marketing Association'').

SUMMARY: The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to Independent Film and Television Alliance (''IFTA'') on May 8, 2009. The Certificate has been amended seven times. The previous amendment was issued to IFTA on August 6, 2003, and published in the **Federal Register** August 13, 2003 (68 FR 48342). The original Export Trade Certificate of Review No. 87–00001 was issued to IFTA on April 10, 1987, and published in the **Federal Register** on April 17, 1987 (52 FR 12578).

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Acting Director Office of Competition and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or by e-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2008).

Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate:

IFTA's Export Trade Certificate of Review has been amended to:

1. Change the previous name of the Certificate holder from ''American Film Marketing Association'' to the current name, ''Independent Film and Television Alliance'';

2. Add the following companies as new Members of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.(1)):

111 Pictures Ltd, London, United Kingdom
2929 International, LLC, Beverly Hills, CA
Action Concept Film und Stuntproduktion GmbH, Huerth/Cologne, Germany
Alpine Pictures, Inc., Burbank, CA
American Cinema International, Van Nuys, CA

American World Pictures, Encino, CA
Artist View Entertainment, Inc., Studio City, CA
AV Pictures Ltd, London, United Kingdom
Bleiberg Entertainment, Beverly Hills, CA
Bold Films L.P., Los Angeles, CA
Boll AG, Mainz, Germany
Brainstorm Media, Beverly Hills, CA
Brightlight Pictures Inc., Burnaby, Canada
Cinamour Entertainment, Encino, CA
Cinema Management Group, West Hollywood, CA
Cinesavvy, Inc., Toronto, Canada
CJ Entertainment Inc., Seoul, Republic of (South) Korea
Classic Media, Inc., New York, NY
ContentFilm International, London, United Kingdom
Continental Entertainment Capital, Beverly Hills, CA
DeAPlaneta, Barcelona, Spain
Distribution Workshop, Kowloon Tong, Hong Kong
Ealing Studios International, London, United Kingdom
Echo Bridge Entertainment, Needham, MA
Emperor Motion Pictures, Wanchai, Hong Kong
Epic Pictures Group, Inc., Beverly Hills, CA
Essential Entertainment, Los Angeles, CA
EuropaCorp, Paris, France
Fabrication Films, Los Angeles, CA
Film Department (The), West Hollywood, CA
First California Bank, Los Angeles, CA
Foresight Unlimited, Bel Air, CA
Freemantle Corporation (The), Toronto, Canada
Gaiam Americas, Inc., New York, NY
Gaumont, Neuilly-sur-Seine, France
Golden Network Asia Limited, Kwun Tong, Hong Kong
GreeneStreet Films, New York, NY
HandMade Films International, London, United Kingdom
Hollywood Wizard, Northridge, CA
ICB Entertainment Finance, Glendale, CA
IM Global, Beverly Hills, CA
Imageworks Entertainment International, Inc., Chatsworth, CA
Imagi Studios, Sherman Oaks, CA
Imagination Worldwide, LLC, Beverly Hills, CA
Independent Film Sales, London, United Kingdom
Insight Film Releasing Ltd., Vancouver, Canada
ITN Distribution, Inc., Las Vegas, NV
Intandem Films, London, United Kingdom
K5 International GmbH, Muenchen, Germany
Kimmel International, New York, NY
Koan Inc., Park City, UT
Little Film Company (The), Studio City, CA
Mainline Releasing, Santa Monica, CA
MarVista Entertainment, Los Angeles, CA
Maverick Global, a division of Maverick Entertainment Group, Inc., Deerfield Beach, FL
Media 8 Entertainment, Sherman Oaks, CA
Media Luna Entertainment, Cologne, Germany
Myriad Pictures, Santa Monica, CA
Neoclassics Films Ltd., Culver City, CA
New Films International, Sherman Oaks, CA
New Horizons Picture Corp., Los Angeles, CA
NonStop Sales AB, Stockholm, Sweden
Nordisk Film A/S, Valby, Denmark
Odd Lot International, Culver City, CA
Paramount Vantage International, Los Angeles, CA
Park Entertainment Ltd., London, United Kingdom
Passport International Entertainment, LLC, North Hollywood, CA
Peace Arch Entertainment, Marina Del Rey, CA
QED International, Los Angeles, CA
Quantum Releasing LLC, Burbank, CA
RHI Entertainment Distribution, LLC, New York, NY
Screen Capital International Corp., Beverly Hills, CA
Screen Media Ventures, LLC, New York, NY
SND, Neuilly-sur-Seine, France
Sobini Films, Santa Monica, CA
Spotlight Pictures, LLC, Hollywood, CA
Starz Media, Burbank, CA
Stevens Entertainment Group, Dallas, TX
Tandem Communications, Munich, Germany
Taurus Entertainment Company, Glendale, CA
U.S. Bank, Los Angeles, CA
UFO International Productions, Burbank, CA
UK Film Council, London, United Kingdom
Union Bank of California N.A., Los Angeles, CA
Vision Films, Inc., Sherman Oaks, CA
Voltage Pictures, Los Angeles, CA
Wachovia Bank, Los Angeles, CA
Weinstein Company (The), New York, NY
Wild Bunch, Paris, France
Worldwide Film Entertainment LLC, Los Angeles, CA
Yari Film Group, LLC, Los Angeles, CA
York International, Sherman Oaks, CA

3. Delete the following companies as Members of the Certificate:

Alliance Communications Corporation, Beverly Hills, CA
Alliance Atlantis Communication Corp., Toronto, Canada
Arrow Films International Inc., New York, NY
Artisan Entertainment, Santa Monica, CA
Bank of America NT & SA, Los Angeles, CA
Banque Paribas, Los Angeles, CA
Behaviour Worldwide, Inc., Los Angeles, CA
Beyond Films Ltd., Surry Hills, Australia
Big Bear Licensing Corporation, Inc., Los Angeles, CA
Bonneville Worldwide Entertainment, Encino, CA
British Film Institute, London, United Kingdom
Broadstar Entertainment Corporation, Hollywood, CA
Buena Vista Film Sales, Burbank, CA
Buena Vista Television, A Division of Disney/ABC Int'l TV Inc., Burbank, CA
BV International Pictures AS, Avaldsnes, Norway
Castle Hill Productions, Inc., New York, NY
Cecchi Gori Group, Los Angeles, CA
China Star Entertainment Group, TST, Kowloon, Hong Kong
Cinema Financial Services, Inc., New York, NY
Cinequanon Pictures International, Los Angeles, CA
CLT–UFA, Beverly Hills, CA
Concorde-New Horizons Corporation, Los Angeles, CA
Cori International: Film and Television, Los Angeles, CA
Coutts & Co./Natwest Group, Beverly Hills, CA
Crown Int'l Pictures, Inc., Beverly Hills CA
Discovery Communications, Inc., Bethesda, MD
Dream Entertainment, Beverly Hills, CA (formerly listed as ''Dream Entertainment, Los Angeles, CA'')
DZ Bank, London, United Kingdom
Film Roman, Inc., Los Angeles, CA
Filmfour International, London, United Kingdom
Films (Guernsey) Limited
Fleetboston Financial, Boston, MA
Franchise Pictures, Los Angeles, CA
Full Moon Pictures, Hollywood, CA
G.E.L. Productions, Los Angeles, CA
Golden Harvest Entertainment Co., Ltd., Beverly Hills, CA
Good Times Entertainment, Inc., Bel Air, CA
Hamdon Entertainment, Studio City, CA
Han Entertainment, Hong Kong
HBO Enterprises, New York, NY
Hollywood Previews Entertainment, Inc., Santa Monica, CA

Horizon Entertainment, Inc., Vancouver, Canada
IAC Film & Television, London, United Kingdom
Imperial Entertainment Group, Beverly Hills, CA
In-Motion Pictures, Inc., London, United Kingdom
Interlight Pictures, W. Hollywood, CA
Intermedia, London, United Kingdom
Intra Movies SRL, Rome, Italy
J&M Entertainment, Los Angeles, CA
JP Morgan Securities, Inc. Entertainment Industries Group, Los Angeles, CA
Kevin Williams Associates, S.A., Madrid, Spain
King World Productions, Inc., New York, NY
Lewis Horwitz Organization, Los Angeles, CA
Lolafilms, Madrid, Spain
Lumiere International, Los Angeles, CA
Marquee Entertainment Inc., Los Angeles, CA
MCEG Sterling Entertainment, Los Angeles, CA
Melrose Entertainment, Inc., Beverly Hills, CA
MTG Media Properties, Ltd., New York, NY
Natixis Banques Populaires, Los Angeles, CA (formerly listed as ''Natexis Bank—BFCE, Los Angeles, CA'')
Noble Productions, Inc., Los Angeles, CA
North American Releasing, Inc., Vancouver, Canada
Oasis Pictures, Los Angeles, CA
October Films International, New York, NY
Overseas Film Group/First Look Pictures, Los Angeles, CA
P.C. Films Corp., Nantucket, MA
P.M. Entertainment, Sunland, CA
Pacific Century Bank, Encino, CA
Pandora Cinema, Santa Monica, CA
Pearson Television International, Los Angeles, CA
Phoenician Entertainment, Sherman Oaks, CA
Playboy Entertainment Group, Inc., Beverly Hills, CA
Powerhouse Entertainment Group, Inc., Beverly Hills, CA
Quadra Entertainment, Beverly Hills, CA
Quixote Productions, Los Angeles, CA
Redwood Communications, Venice, CA
Renaissance Films, Ltd., London, United Kingdom
Republic Bank California N.A., Beverly Hills, CA
Republic Entertainment, Inc., Los Angeles, CA
RKO Pictures, Los Angeles, CA
Rysher Entertainment, Santa Monica, CA
Scanbox International, Inc., Studio City, CA
Seven Arts Entertainment, Hollywood, CA
Shapiro/Glickenhaus Ent., Studio City, CA
Shooting Gallery, The, Beverly Hills, CA
Silicon Valley Bank for the activities of its Entertainment Division, Los Angeles, CA
Silver Star Film Corp., Los Angeles, CA
Sogepaq S.A., Madrid, Spain
Solo Entertainment Group, Inc., Beverly Hills, CA
Spelling Films International, Los Angeles, CA
Splendid Pictures, Inc., Bel Air, CA
Stadtsparkasse Koeln, Entertainment Finance, Cologne, Germany
Starway International, Los Angeles, CA
The Norkat Company Limited, Beverly Hills, CA
Tomorrow Film Corp., Santa Monica, CA
Trident Releasing, Inc., Los Angeles, CA
Trimark Pictures, Santa Monica, CA
Trust Film Sales, Hvidovre, Denmark
TVA Films, A Division of Group TVA, Inc., Montreal, Canada
United Film Distributors, Inc., Los Angeles, CA
Viacom Pictures/Showtime Networks, Universal City, CA
Vine International Pictures, Ltd., Downe, Orpington, United Kingdom
Vision International, Beverly Hills, CA
World Films, Inc, Los Angeles, CA; and

4. Change the name and/or address listing of each of the following current Certificate Members:

Change ''Alain Siritzky Productions (ASP), Paris, France'' to ''Alain Siritzky Productions (ASP), Los Angeles, CA''; ''Arclight Films Pty. Ltd., Sydney, Australia'' to ''Arclight Films Pty. Ltd., Moore Park, Australia''; ''Atrium Productions KFT, Rotterdam, The Netherlands'' to ''Atrium Productions KFT, Budapest, Hungary''; ''Cinema Arts Entertainment, Beverly Hills, CA'' to ''Cinema Arts Entertainment, Los Angeles, CA''; ''Comerica Bank-California, Los Angeles, CA'' to ''Comerica Entertainment Group, Los Angeles CA''; ''Crystal Sky Communications, Los Angeles, CA'' to ''Crystal Sky Worldwide Sales LLC, Los Angeles, CA''; ''Distant Horizon Ltd., Surrey, United Kingdom'' to ''Distant Horizon Ltd., Middlesex, United Kingdom''; ''Filmax-SOGEDASA, Barcelona, Spain'' to ''Filmax International, Barcelona, Spain''; ''Green Communications, Burbank, CA'' to ''Green Communications, Hollywood, CA''; ''Initial Entertainment, Los Angeles, CA'' to ''GK Films, LLC, Santa Monica, CA''; ''Keller Entertainment Group, Sherman Oaks, CA'' to ''Keller Entertainment Group, Inc., Los Angeles, CA''; ''Liberty International Entertainment, Inc., Los Angeles, CA'' to ''Liberation Entertainment, Inc., Los Angeles, CA''; ''Lakeshore International, Hollywood, CA'' to ''Lakeshore Entertainment Group, LLC, Beverly Hills, CA''; ''Lions Gate Films International, Los Angeles, CA'' to ''LIONSGATE, Santa Monica, CA''; ''Miramax International, Los Angeles, CA'' to ''Miramax Films, New York, NY''; ''Moonstone Entertainment, Beverly Hills, CA'' to ''Moonstone Entertainment, Studio City, CA''; ''Motion Picture Corporation of America, Santa Monica, CA'' to ''Motion Picture Corporation of America, Los Angeles, CA''; ''New Line Cinema Corporation, Los Angeles, CA'' to ''New Line Cinema, Burbank, CA''; ''North by Northwest Distribution, Spokane, WA'' to ''North by Northwest Entertainment, Spokane, WA''; ''Omega Entertainment Ltd., Los Angeles, CA'' to ''Omega Entertainment Ltd., Zurich, Switzerland''; ''Pathe International, Paris, France'' to ''Pathe Distribution, Paris, France''; ''Promark Entertainment Group, Los Angeles, CA'' to ''Promark/Zenpix, Sherman Oaks, CA''; ''Regent Entertainment, Los Angeles, CA'' to ''Regent Worldwide Sales LLC, Los Angeles, CA''; ''Safir Films, Ltd., Middlesex, United Kingdom'' to ''Safir Films, Ltd., Harrow, United Kingdom''; ''Studiocanal, Boulogne, France'' to ''StudioCanal, Issy Les Moulineaux, France''; ''TF1 International, Boulogne Billancourt Cedex, France'' to ''TF1 International, Issy Les Moulineaux, France''; ''The Works, London, United Kingdom'' to ''Works International (The), London, United Kingdom''; and ''Troma Entertainment, Inc., New York, NY'' to ''Troma Entertainment, Inc., Long Island City, NY.''

The effective date of the amended certificate is December 1, 2008. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: May 11, 2009.

Jeffrey Anspacher,

Acting Director, Office of Competition and Economic Analysis.

[FR Doc. E9–11459 Filed 5–15–09; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XP26

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a joint meeting of the Standing and Special Reef Fish Scientific and Statistical Committee (SSC).

DATES: The meeting will convene at 1 p.m. on Monday, June 1, 2009 and conclude by 3 p.m. on Wednesday, June 3, 2009.

ADDRESSES: The meeting will be held at the Hilton, 2225 N. Lois Ave., Tampa, FL 33607, telephone: (813) 877–6688.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician; Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The SSC will meet jointly with the Reef Fish Advisory Panel (AP) on the first day of the meeting. The SSC and AP will receive a brief orientation for new members, and will hear presentations on update assessments for gag and red grouper. The last full benchmark assessments for these stocks were completed in 2007 (SEDAR 10 for gag and SEDAR 12 for red grouper). The SSC and AP will also hear a presentation on the issues and preferred alternatives in Reef Fish Amendment 31 that address bycatch of sea turtles in the bottom longline reef fish fishery.

Following the presentations, the SSC and AP will reconvene separately. The SSC will review the role of the SSC as described in the Council's Statement of Organization, Practices, and Procedures (SOPPs) and proposed changes in the operations and administration of SSCs that are in a NMFS Proposed Rule (74 FR 13386), including financial disclosure requirements.

The SSC will also discuss the gag and red grouper update assessments, and determine if they are the best available scientific information. They will recommend an allowable biological catch (ABC) for each stock that must be equal to or less than the overfishing limit (OFL) specified in the update assessments after taking into account scientific uncertainty. The SSC may also make other comments and recommendations concerning the update assessments.

The SSC will also discuss and provide recommendations on the issues and preferred alternatives in Reef Fish Amendment 31. In addition, they will review a recently published scientific report that suggests that venting of fish may decrease rather than increase survival of fish caught from deeper waters, and will consider recommending that they convene a future workshop to review current research on venting and other safe release methods. The SSC will also elect a new Chair and Vice-chair. The comments and recommendations of the SSC will be presented to the Council at its June 15–18, 2009 meeting in Tampa, FL.

Copies of the agenda and other related materials can be obtained by calling (813) 348–1630.

Although other non-emergency issues not on the agenda may come before the SSCs for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the SSCs will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: May 13, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–11472 Filed 5–15–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XP31

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Herring Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The two-day meeting will be held on Thursday, June 4, 2009 at 9:30 a.m. and on Friday, June 5, 2009 at 9 a.m.

ADDRESSES: The meeting will be held at the Clarion Hotel, 1230 Congress Street, Portland, ME; telephone: (207) 774–5611; fax: (207) 871–0510.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

Thursday, June 4, 2009 beginning at 9:30 a.m. and Friday, June 5, 2009 beginning at 9 a.m.

1. Continue development of management alternatives to be considered in Amendment 4 to the Atlantic Herring Fishery Management Plan (FMP) development of alternatives may include discussion related to measures to establish annual catch limits (ACLs) and accountability measures (AMs); a catch monitoring program for the herring fishery; measures to address river herring bycatch; measures to establish criteria for midwater trawl access to groundfish closed areas; and measures to address interactions with the mackerel fishery

2. Review/discuss recommendations from Scientific and Statistical Committee (SSC), Enforcement Committee, Herring Advisory Panel, and Herring Plan Development Team (PDT)

3. Finalize alternatives for establishing ACLs and AMs

4. Continue discussion of management measures related to catch monitoring, including but not limited

to: specific monitoring and reporting requirements for herring vessels and processors, observer coverage and at-sea monitoring, shoreside/dockside monitoring and sampling, vessel monitoring system (VMS) requirements, as well as other measures related to catch monitoring

5. Review information related to Northeast Fishery Science Center study fleet program and discuss applicability of study fleet technology to herring catch monitoring alternatives in Amendment 4

6. Discuss/develop options for industry-funded catch monitoring programs (dockside and/or at-sea)

7. Review draft dockside sampling program and develop Committee recommendations

8. Review timeline for Amendment 4 and develop Committee recommendations for Council consideration in June 2009 regarding alternatives for inclusion in the Amendment 4 Draft EIS

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: May 13, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–11475 Filed 5–15–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XP32

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Scientific and Statistical Committee (SSC), Golden Crab Advisory Panel, Wreckfish Advisory Panel, Limited Access Privilege Program (LAPP) Committee, Golden Crab Committee, SSC Selection Committee (Closed Session), a joint meeting of its Executive and Finance Committees, Dolphin/Wahoo Committee, Spiny Lobster Committee, Mackerel Committee, Advisory Panel Selection Committee (Closed Session), Standard Operating, Policy and Procedure (SOPPs) Committee, SouthEast Data, Assessment, and Review (SEDAR) Committee, Ecosystem-Based Management Committee, Snapper Grouper Committee, and a meeting of the full Council. The Council will conduct a workshop with the SSC and Golden Crab Advisory Panel (AP) and a separate workshop with the SSC and Wreckfish AP. The Council will also hold an informal public question and answer session with NMFS Regional Administrator and Council Chairman as well as an open public comment period relative to agenda items. See **SUPPLEMENTARY INFORMATION** for additional details.

DATES: The meeting will be held June 7–12, 2009. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Hutchinson Island Marriott, 555 NE Ocean Boulevard, Stuart, FL 34996; telephone: (800) 775–5936 or (772) 225–3700; fax: (772) 225–0003. Copies of documents are available from Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366 or toll free at (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION:

Meeting Dates

1. Golden Crab Advisory Panel and SSC Workshop: June 7, 2009, 9 a.m. until 10:30 a.m.

The Golden Crab Advisory Panel and SSC will review the biology of the golden crab and red crab fisheries, available data, and receive a presentation on the fishery from AP members.

2. Wreckfish Advisory Panel and SSC Workshop: June 7, 2009, 10:30 a.m. until 12 p.m.

The Wreckfish Advisory Panel and SSC will review the biology of wreckfish, available data, and receive a presentation on the fishery from the Wreckfish AP.

3. Scientific and Statistical Committee: June 7, 2009, 1:30 p.m. until 5 p.m.; June 8, 2009, 8:30 a.m. until 5 p.m.; and June 9, 2009, 8:30 a.m. until 5 p.m.

The SSC will receive updates on the status of Amendments 15B, 16 and 18 to the Snapper Grouper Fishery Management Plan (FMP), the Fishery Ecosystem Plan, the Comprehensive Ecosystem-Based Amendment 1, Amendment 18 to the Coastal Migratory Pelagics FMP, and the Comprehensive Annual Catch Limit (ACL) Amendment. The SSC will also review the Council's Research and Monitoring Plan and consider for approval. The SSC will receive presentations regarding the Acceptable Biological Catch (ABC) Control Rule, discuss applications, and finalize an ABC Control Rule document. The SSC will also receive an update on Amendment 17 to the Snapper Grouper FMP, discuss area closures, and receive a report regarding possible implementation of a monitoring plan under Amendment 17. The SSC will prepare a written report for presentation to the Council.

4. Golden Crab Advisory Panel Meeting: June 8, 2009, 8:30 a.m. until 10:30 a.m.

The Golden Crab Advisory Panel will discuss the Golden Crab and SSC Workshop, develop recommendations on Annual Catch Limits (ACLs) and Accountability Measures (AMs) and other management measures, and will receive an update and discuss the Golden Crab LAPP.

5. Wreckfish Advisory Panel Meeting: June 8, 2009, 10:30 a.m. until 12 p.m.

The Wreckfish Advisory Panel will discuss the Wreckfish and SSC Workshop, develop recommendations on ACLs and AMs, and discuss Amendment 18 wreckfish Individual Transferable Quota (ITQ) changes and develop recommendations.

6. LAPP Committee Meeting: June 8, 2009, 1:30 p.m. until 4 p.m.

The LAPP Committee will receive an update on meetings with the Golden Crab and Wreckfish Advisory Panels, review options and provide direction to staff.

7. Golden Crab Committee Meeting: June 8, 2009, 4 p.m. until 5:30 p.m.

The Golden Crab Committee will receive an update on meetings with the golden crab fishermen, review options and provide direction to staff.

8. SSC Selection Committee Meeting (Closed Session): June 9, 2009, 8:30 a.m. until 10 a.m.

The SSC Selection Committee will review membership, discuss policy issues, and develop recommendations as appropriate.

9. Joint Executive/Finance Committees Meeting: June 9, 2009, 10 a.m. until 11 a.m.

The Joint Executive and Finance Committee will meet jointly to review the status of Calendar Year (CY) 2009 Council funding and approve the CY 2009 budget.

10. Dolphin/Wahoo Committee Meeting: June 9, 2009, 11 a.m. until 12 p.m.

The Dolphin/Wahoo Committee will review options to be included in the Comprehensive ACL Amendment and provide guidance to staff.

11. Spiny Lobster Committee Meeting: June 9, 2009, 1:30 p.m. until 2:30 p.m.

The Spiny Lobster Committee will receive a report on the status of the work with the Gulf Council on the joint Spiny Lobster Amendment, review options and provide guidance to staff.

12. Mackerel Committee Meeting: June 9, 2009, 2:30 p.m. until 4 p.m.

The Mackerel Committee will receive a report on the status of the work with the Gulf Council on the joint Mackerel Amendment, review options, and provide direction to staff.

13. SOPPs Committee Meeting: June 9, 2009, 4 p.m. until 5:30 p.m.

The SOPPs Committee will review the proposed rule addressing Council SOPPs and develop comments. The Committee will develop changes to SOPPs as necessary.

NOTE: Interested persons will be provided the opportunity to present oral or written statements regarding matters on the Council agenda from 5:30 p.m. until 7 p.m.

14. Advisory Panel Selection Committee (Closed Session): June 10, 2009, 8:30 a.m. until 9:30 a.m.

The Advisory Panel Selection Committee will review applicants and develop recommendations.

15. SEDAR Committee Meeting: June 10, 2009, 9:30 a.m. until 10:30 a.m.

The SEDAR Committee will review the results of the SEDAR Steering Committee meeting and develop recommendations.

16. Ecosystem-Based Management Committee: June 10, 2009, 10:30 a.m. until 12 p.m.

The Ecosystem-Based Management Committee will review the National Environmental Policy Act (NEPA) and legal comments on the Fishery Ecosystem Plan (FEP) Comprehensive Ecosystem-Based Amendment 1 and develop recommendations. The Committee will also review options for the Comprehensive Ecosystem-Based Amendment 2 and provide direction to staff as well as receive a presentation on the South Atlantic Governor's Alliance.

17. Snapper Grouper Committee: June 10, 2009, 1:30 p.m. until 5 p.m.; June 11, 2009, 8:30 a.m. until 12 p.m.

The Snapper Grouper Committee will receive an update on Oculina monitoring activities, receive a report from the SSC, and receive a report on the status of the Red Snapper Interim Rule. The Committee will also receive a presentation of the red snapper rebuilding projections, review draft Snapper Grouper Amendment 17 and provide direction to staff, and approve Amendment 17 for public hearing (if possible). In addition, the Committee will review Snapper Grouper Amendment 18 options and provide direction to staff, review SSC recommendations on control rules, and review the Comprehensive ACL Amendment.

NOTE: There will be an informal public question and answer session with NOAA Fisheries Services' Regional Administrator and the Council Chairman, focusing on management issues relative to red snapper, on June 10, 2009 beginning at 5:30 p.m.

18. Council Session: June 11, 2009, 1:30 p.m. until 5 p.m. and June 12, 2009, 8:30 a.m. until 12:30 p.m.

Council Session: June 11, 1:30 p.m. until 5 p.m.

From 1:30 p.m. - 2 p.m., the Council will call the meeting to order, adopt the agenda, and approve the March 2009 meeting minutes.

From 2 p.m. - 2:30 p.m., the Council will receive a report on Florida's management of permit (Trachinotus falcatus) in federal waters.

From 2:30 p.m. - 3 p.m., the Council will receive an update on the Atlantic Sea Turtle Strategy.

From 3 p.m. - 3:30 p.m., the Council will receive an update on the National Marine Protected Area Program.

From 3:30 p.m. - 4 p.m., the Council will receive a report from the Ecosystem-Based Management Committee and take action as appropriate.

From 4 p.m. - 4:30 p.m., the Council will receive a report from the Snapper Grouper Committee and take action as appropriate.

From 4:30 p.m. - 4:45 p.m., the Council will receive a report from the LAPP Committee and take action as appropriate.

From 4:45 p.m. - 5 p.m., the Council will receive a report from the Golden Crab Committee and take action as appropriate.

Council Session: June 12, 2009, 8:30 a.m. until 12:30 p.m.

From 8:30 a.m. - 8:45 a.m., the Council will receive a report from the SSC Selection Committee and take action as appropriate.

From 8:45 a.m. - 9 a.m., the Council will receive a report from the Joint Executive/Finance Committee and take action as appropriate.

From 9 a.m. - 9:15 a.m., the Council will receive a report from the Dolphin/Wahoo Committee and take action as appropriate.

From 9:15 a.m. - 9:30 a.m., the Council will receive a report from the Spiny Lobster Committee and take action as appropriate.

From 9:30 a.m. - 9:45 a.m., the Council will receive a report from the Mackerel Committee and take action as appropriate.

From 9:45 a.m. - 10 a.m., the Council will receive a report from the Advisory Panel Selection Committee and take action as appropriate.

From 10 a.m. - 10:15 a.m., the Council will receive a report from the SOPPs Committee and take action as appropriate.

From 10:15 a.m. - 10:30 a.m., the Council will receive a report from the SEDAR Committee and take action as appropriate.

From 10:30 a.m. - 10:45 a.m., the Council will receive a report on the Council Coordinating Committee (CCC) meeting.

From 10:45 a.m. - 11:15 a.m., the Council will receive a status report from NOAA Fisheries Service on commercial quotas by fishing year for: Atlantic king mackerel, Gulf king mackerel (eastern zone), Atlantic Spanish mackerel, snowy grouper, golden tilefish, wreckfish, greater amberjack, South Atlantic Octocorals and dolphin (soft quota ratios), vermilion snapper, black

sea bass, red porgy and gag. The Council will also receive a status report of Snapper Grouper Amendment 16, Protected Species Issues, VMS Compliance report from Law Enforcement, and review and develop recommendations on Experimental Fishing Permits as necessary.

From 11:15 a.m. - 11:45 a.m., the Council will receive status reports from NMFS Southeast Fisheries Science Center on the Data Collection and Stock Assessment Improvement Plans, a progress report on aging red and black grouper, 2007 and 2008 headboat data entry, and the status of recreational catches versus allocations where appropriate of the following species: Atlantic king mackerel and Spanish mackerel, black sea bass, golden tilefish, snowy grouper, red porgy, greater amberjack, dolphin, wahoo, vermilion snapper, gag, red snapper, mutton snapper, and yellowtail snapper.

From 11:45 a.m. - 12:30 p.m., the Council will receive agency and liaison reports, discuss other business and upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subjects of formal final Council action during these meetings. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by June 4, 2009.

Dated: May 13, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–11476 Filed 5–15–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XP25

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a meeting of the Reef Fish Advisory Panel (AP).

DATES: The meeting will convene at 1 p.m. on Monday, June 1, 2009 and conclude by 3 p.m. on Tuesday, June 2, 2009.

ADDRESSES: The meeting will be held at the Hilton, 2225 N. Lois Ave., Tampa, FL 33607, (813) 877–6688.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Carrie Simmons, Fishery Biologist; Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The AP will meet jointly with the Standing and Special Reef Fish Scientific and Statistical Committee (SSC) on the first day of the meeting. The AP and SSC will receive a brief orientation for new members and will hear presentations on update assessments for gag and red grouper. The last full benchmark assessments for these stocks were completed in 2007 (SEDAR 10 for gag and SEDAR 12 for red grouper). The AP and SSC will also hear a presentation on the issues and preferred alternatives in Reef Fish Amendment 31 that address bycatch of sea turtles in the bottom longline reef fish fishery.

Following the presentations, the AP and SSC will reconvene separately. The AP will discuss the gag and red grouper update assessments, and provide comments and recommendations concerning the assessments. The AP will discuss and provide comments and recommendations on Amendment 31. The AP will also elect a new Chair and Vice-chair. The comments and recommendations of the AP will be presented to the Council at its June 15–18, 2009 meeting in Tampa, FL.

Copies of the agendas and other related materials can be obtained by calling (813) 348–1630.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: May 13, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–11471 Filed 5–15–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XP30

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling public meetings of its Monkfish Advisory Panel and its Monkfish Committee, on June 2, 2009 and June 3, 2009, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This Advisory Panel meeting will be held on Tuesday, June 2, 2009 at 9 a.m. and the Committee meeting will be held on Wednesday, June 3, 2009 at 9 a.m.

ADDRESSES: The meetings will be held at the Holiday Inn, 31 Hampshire Street,

Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 339–1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Monkfish Advisory Panel and the Committee will finalize recommendations to the Councils for measures to be considered in the Draft Environmental Impact Statement (DEIS) for Amendment 5, including, but not limited to: biological and management reference points; specifications of catch target and management measures to achieve the targets (DAS, trip limits and other measures); modifications, additions or deletions to the management measures currently in the plan; and, if time allows, catch share programs (ITQs and/or sectors). The Committee will consider Advisory Panel recommendations in finalizing its recommendations to the Mid-Atlantic Council at their June 9–11 meeting and to the New England Council at its June 23–25 meeting.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 13, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–11474 Filed 5–15–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XP27

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings of the North Pacific Fishery Management Council and its advisory committees.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings, June 1–9, 2009, at the Anchorage Hilton Hotel, 500 West 3rd Avenue, Anchorage, AK.

DATES: The Council will begin its plenary session at 8 a.m. on Wednesday June 3 continuing through Tuesday June 9, 2009. The Council's Advisory Panel (AP) will begin at 8 a.m., Monday, June 1 and continue through Saturday June 6. The Scientific and Statistical Committee (SSC) will begin at 8:00 a.m. on Monday, June 1 and continue through Wednesday June 3, 2009. All meetings are open to the public, except executive sessions.

ADDRESSES: The meetings will be held at the Anchorage Hilton Hotel, 500 W 3rd Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: David Witherell, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: *Council Plenary Session*: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports

Executive Director's Report (including review of Statement of Organization, Practices and Procedures (SOPPs)

NMFS Management Report

Alaska Department of Fish & Game Report

NOAA Enforcement Report

U.S. Coast Guard Report

U.S. Fish & Wildlife Service Report

Protected Species Report (Including update on Steller Sea Lion Biological Opinion)

2. Gulf of Alaska (GOA) Groundfish Issues: Review alternatives for Central GOA Rockfish Program; review alternatives for parallel waters issue in Pacific cod sector split; review discussion paper on GOA vessel capacity (T).

3. BSAI Fixed Gear Parallel Fisheries: Final action on amendment to limit access in Pacific cod parallel waters fishery.

4. BSAI Crab Program: Initial review of Emergency Delivery Relief analysis; review discussion papers; Rights of First Refusal (ROFR), Western Aleutian Island golden king crab regionalization and Processing Quota (PQ) issues, extinguishing crab PQ, and Leasing restrictions (T); discuss plan for 5-year review of the program and provide direction; approve Stock Assessment Fishery Evaluation report and refine crab rebuilding plan alternatives.

5. Bering Sea Salmon Bycatch: Refine alternatives for the chum salmon bycatch analysis; receive discussion paper and committee report on salmon bycatch data collection.

6. Marine Protection Act Nomination Process: Review status and discuss next steps (T).

7. National Issues: Initial review of analysis to establish permit fees for all fisheries; discuss workplan to meet Annual Catch Limits (ACL) requirements and take action as necessary.

8. Groundfish Issues: Initial review analysis of bottom trawl gear sweep requirements; Initial review of analysis to set catch specifications for the BSAI skate complex.

9. Ecosystem issues: Status report on the Habitat Area of Particular Concern (HAPC); Review of the Northern Bering Sea Research Plan.

10. Staff Tasking: Review Committees and tasking; discuss Rural Outreach Committee activities; review groundfish policy objectives and workplan.

11. Other Business

The SSC agenda will include the following issues:

1. BSAI Crab Program

2. Salmon Bycatch Data Collection Committee Report

3. National Issues

4. Ecosystem Issues

The Advisory Panel will address most of the same agenda issues as the Council, except for #1 reports. The Agenda is subject to change, and the latest version will be posted at *http://www.fakr.noaa.gov/npfmc/*.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues

specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: May 13, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–11473 Filed 5–15–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 405–087]

Exelon Generation Company, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, and Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests

May 11, 2009.

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Licensing Proceeding.

b. *Project No.:* 405–087.

c. *Date Filed:* March 12, 2009.

d. *Submitted by:* Exelon Generation Company, LLC.

e. *Name of Project:* Conowingo Hydroelectric Project.

f. *Location:* On the Susquehanna River, in Harford and Cecil Counties, Maryland and Lancaster and York Counties, Pennsylvania. The project does not occupy any federal lands.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Colleen Hicks, Manager, Regulatory and Licensing, Hydro, Exelon Power, 300 Exelon Way, Kennett Square, PA 19348, at (610) 765–6791 or e-mail at *Colleen.Hicks@exeloncorp.com* and A. Karen Hill, Vice President, Federal Regulatory Affairs, Exelon Corporation, 101 Constitution Avenue, Suite 400E, Washington, DC 20001, at (202) 347–8092 or e-mail at *Karen.Hill@exeloncorp.com.*

i. *FERC Contact:* John Smith at (202) 502–8972 or e-mail at *john.smith@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 o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR Part 402; and (b) the State Historic Preservation Officer, as required by Section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Exelon Generation Company, LLC as the Commission's non-federal representative for carrying out informal consultation, pursuant to Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

m. Exelon Generation Company, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Scoping Document issued May 11, 2009, as well as study requests. All comments on the PAD and Scoping Document, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and Scoping Document, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Conowingo Hydroelectric Project) and number (P–405–087), and bear the heading Comments on Pre-Application Document, Study Requests, Comments on Scoping Document, Request for Cooperating Agency Status, or Communications to and from Commission Staff. Any individual or entity interested in submitting study requests, commenting on the PAD or Scoping Document, and any agency requesting cooperating status must do so by July 10, 2009.

Comments on the PAD and Scoping Document, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the e-filing link. For a simpler method of submitting text only comments, click on ''Quick Comment.''

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the

scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date: Thursday June 11, 2009.
Time: 7 p.m.
Location: Darlington Fire Station, 2600 Castleton Road, Darlington, Maryland.
Phone: Barbara Evans at (410) 638–3762.

Daytime Scoping Meeting

(Joint meeting with Muddy Run Pumped Storage Project [Project No. 2355–011])
Date: Friday June 12, 2009.
Time: 10 a.m.
Location: Darlington Fire Station, 2600 Castleton Road, Darlington, Maryland.
Phone: Barbara Evans at (410) 638–3762.

The Scoping Document, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of the Scoping Document will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov*, using the eLibrary link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a revised Scoping Document may be issued which may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Site Visit

The potential applicant and Commission staff will conduct a site visit of the project on Thursday June 11, 2009, starting at 9 a.m. All participants should meet at the Conowingo Visitor's Center at 4948 Conowingo Road, Darlington, Maryland 21034. Transportation will be provided by Exelon Generation Company, LLC or participants may use their own transportation. Anyone needing transportation or with questions about the site visit should contact Ms. Colleen Hicks at Exelon Generation Company, LLC at (610) 765–6791 on or before June 3, 2009.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and Scoping Document are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–11461 Filed 5–15–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2355–011]

Exelon Generation Company, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, and Scoping; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

May 11, 2009.

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Licensing Proceeding.

b. *Project No.:* 2355–011.

c. *Dated Filed:* March 12, 2009.

d. *Submitted By:* Exelon Generation Company, LLC.

e. *Name of Project:* Muddy Run Pumped Storage Project.

f. *Location:* On Muddy Run, a tributary to the Susquehanna River, in Lancaster and York Counties, Pennsylvania. The project does not occupy any Federal lands.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Colleen Hicks, Manager, Regulatory and Licensing, Hydro, Exelon Power, 300 Exelon Way, Kennett Square, PA 19348, at (610) 765–6791 or e-mail at *Colleen.Hicks@exeloncorp.com* and A. Karen Hill, Vice President, Federal Regulatory Affairs, Exelon Corporation, 101 Constitution Avenue, Suite 400E, Washington, DC 20001, at (202)347–8092 or e-mail at *Karen.Hill@exeloncorp.com.*

i. *FERC Contact:* John Smith at (202) 502–8972 or e-mail at *john.smith@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 o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and (b) the State Historic Preservation Officer, as required by Section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Exelon Generation Company, LLC as the Commission's non-Federal representative for carrying out informal consultation, pursuant to Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

m. Exelon Generation Company, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/*

esubscription.asp to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Scoping Document issued May 11, 2009, as well as study requests. All comments on the PAD and Scoping Document, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and Scoping Document, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Muddy Run Pumped Storage Project) and number (P–2355–011), and bear the heading Comments on Pre-Application Document, Study Requests, Comments on Scoping Document, Request for Cooperating Agency Status, or Communications to and from Commission Staff. Any individual or entity interested in submitting study requests, commenting on the PAD or Scoping Document, and any agency requesting cooperating status must do so by July 10, 2009.

Comments on the PAD and Scoping Document, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''e-filing'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.''

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian Tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date: Wednesday June 10, 2009.
Time: 7 p.m.
Location: Muddy Run Visitor's Center, 172 Bethesda Church Road West, Holtwood, Pennsylvania.
Phone: Dave Byers at (717) 284–5863.

Daytime Scoping Meeting

(Joint meeting with Conowingo Hydroelectric Project [Project No. 405–087])
Date: Friday June 12, 2009.
Time: 10 a.m.
Location: Darlington Fire Station, 2600 Castleton Road, Darlington, Maryland.
Phone: Barbara Evans at (410) 638–3762.

The Scoping Document, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of the Scoping Document will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov,* using the eLibrary link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a revised Scoping Document may be issued which may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Site Visit

The potential applicant and Commission staff will conduct a site visit of the project on Wednesday June 10, 2009, starting at 2 p.m. All participants should meet at the Muddy Run Visitor's Center located at 172 Bethesda Church Road West, Holtwood, Pennsylvania. Transportation will be provided by Exelon Generation Company, LLC or participants may use their own transportation. Anyone needing transportation or with questions about the site visit should contact Ms. Colleen Hicks at Exelon Generation Company, LLC at (610) 765–6791 on or before June 3, 2009.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of Federal, State, and Tribal permitting and certification processes; and (5) discuss the appropriateness of any Federal or State agency or Indian Tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and Scoping Document are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–11466 Filed 5–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No: 2042–153]

Public Utility District No. 1 of Pend Oreille County, Washington; Notice of Application for Amendment of License, and Soliciting Comments and Motions To Intervene

May 11, 2009.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Amendment of License.
b. *Project No:* 2042–153.
c. *Date Filed:* March 24, 2009.
d. *Applicant:* Public Utility District No. 1 of Pend Oreille County, Washington.
e. *Name and Location of Project:* The Box Canyon Hydroelectric Project is located on the Pend Oreille River in northeastern Washington and northwestern Idaho. The project occupies federal lands, including acreage within the Colville National Forest and the Kalispel Indian Reservation.

f. *Filed Pursuant to:* The application for amendment of license was filed pursuant to 18 CFR 4.201.

g. *Applicant Contacts:* Mr. Mark Cauchy, Pend Oreille PUD, P.O. Box 190, 130 North Washington, Newport, WA 99156, (509) 447–9331, and Mr. James B. Vasile, Davis Wright Tremaine LP, 1919 Pennsylvania Avenue, NW., Suite 200, Washington, DC 20006, (202) 973–4262.

h. *FERC Contact:* Any questions on this notice should be addressed to Mr. Mark Carter, (202) 502–6554 or *mark.carter@ferc.gov,* and Ms. Holly Frank, (202) 502–6833 or *holly.frank@ferc.gov.*

i. *Deadline for filing comments and motions:* Comments on the application for amendment of license are due within 30 days of the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Please include the project number (P–2042–153) on any comments or motions filed.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

j. *Background and Description of Proposal:* On July 11, 2005, the Commission issued a new license for the continued operation of the Box Canyon Project. On November 17, 2006, the Commission issued its order on rehearing of the July 11 relicense order. The relicense order, as amended by the order on rehearing, contains, in their entirety, conditions submitted by the Department of the Interior (Interior) and the U.S. Forest Service pursuant to section 4(e) of the Federal Power Act (FPA) and the fish passage measures prescribed by Interior pursuant to FPA section 18. On November 21, 2006, the Pend Oreille PUD petitioned the Court of Appeals for the District of Columbia for review of the Commission's July 2005 licensing order and its November 2006 order on rehearing, alleging the 4(e) conditions and section 18 prescriptions were not based on substantial evidence. In February 2007 the case was referred to mediation. The parties have settled the issues and developed revised conditions and prescriptions as a result.

The revised section 4(e) conditions and section 18 prescriptions are included as appendices A through D of the settlement agreement filed with the application for amendment of license. Additional provisions to be included in the license are set forth in appendix E. The settlement agreement also requires Interior and the Forest Service to file revised section 4(e) conditions that will replace certain conditions set forth in the July 11, 2005 licensing order. On April 7 and 9, 2009, respectively, the Forest Service and Interior filed their revised conditions and fishway prescriptions for the project. The Pend Oreille PUD requests that the Commission amend the new license to substitute the revised conditions and prescriptions submitted by the Forest Service and Interior and the additional provisions set forth in Appendix E to the settlement agreement. The Pend Oreille PUD also requests that the Commission make conforming revisions to license articles 401, 402 and 406 to reflect new schedules and other revisions set forth in the revised conditions and prescriptions.

k. *Locations of the Application:* The settlement agreement and application, Interior's revised section 4(e) and section 18 fishway prescriptions and the Forest Service's revised section 4(e) terms and conditions, 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 documents. 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 g 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.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments—Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. In determining the appropriate action to take, the Commission will consider all comments and motions to intervene, 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 or motions to intervene must be received on or before the specified comment date for the application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–11464 Filed 5–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 7, 2009.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG09–39–000.

Applicants: EC&R Papalote Creek I, LLC.

Description: Self Certification Notice of Exempt Wholesale Generator Status of EC&R Papalote Creek I, LLC.

Filed Date: 05/04/2009.

Accession Number: 20090504–5137.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: EG09–40–000.

Applicants: Stony Creek Wind Farm, LLC.

Description: Self Certification Notice of Exempt Wholesale Generator Status of Stony Creek Wind Farm, LLC.

Filed Date: 05/04/2009.

Accession Number: 20090504–5138.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER96–780–020.
Applicants: Southern Company Services, Inc.
Description: Alabama Power Co *et al.* submits additional information in compliance with FERC's 4/9/09 issuance.
Filed Date: 04/30/2009.
Accession Number: 20090504–0053.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ER97–4314–011; ER01–2783–008; ER05–20–003.
Applicants: Old Dominion Electric Cooperative, Inc.; TEC Trading, Inc.; New Dominion Energy Cooperative.
Description: Old Dominion Electric Cooperative *et al.* submits amendment to the updated maker power analysis and compliance filings.
Filed Date: 05/04/2009.
Accession Number: 20090506–0091.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER91–569–043; ER01–666–011; ER02–862–011.
Applicants: Entergy Services, Inc.; EWO Marketing, LP; Entergy Power Ventures, LP.
Description: Entergy Affiliates submits response to the April 9 Letter, which constitutes an amendment to the updated market power analysis originally filed on 8/29/08.
Filed Date: 05/04/2009.
Accession Number: 20090506–0100.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER99–2284–009; ER99–1773–009; ER99–1761–005; ER00–1026–016; ER01–1315–005; ER01–2401–011; ER98–2184–014; ER98–2186–015; ER00–33–011; ER05–442–003; ER98–2185–014; ER99–1228–007; ER01–751–010; ER97–2904–008.
Applicants: AEE 2 LLC; AES Creative Resources LP; AES Eastern Energy, LP; Indianapolis Power & Light Company; AES Ironwood LLC; AES Red Oak LLC; AES Huntington Beach, LLC; AES Redondo Beach, LLC; AES Placerita Inc.; Condon Wind Power, LLC; AES Alamitos, LLC; Storm Lake Power Partners II LLC; Mountain View Power Partners, LLC; Lake Benton Power Partners LLC.
Description: Condon Wind Power, LLC *et al.* submits Supplementary Information.
Filed Date: 05/01/2009.
Accession Number: 20090505–0040.
Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER99–2369–006.
Applicants: Alliance for Cooperative Energy Services.
Description: Notice of Non-Material Change in Status of ACES Power Marketing.
Filed Date: 05/04/2009.
Accession Number: 20090504–5084.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER03–1284–006; ER05–1202–006; ER05–1262–021; ER06–1093–017; ER06–1122–005; ER07–342–004; ER07–407–005; ER07–522–005; ER08–1111–003; ER08–1225–003; ER08–1226–003; ER08–1227–002; ER08–1228–002.
Applicants: High Trail Wind Farm, LLC, Blue Canyon Windpower II LLC, Old Trail Wind Farm, LLC, Telocaset Wind Power Partners, LLC, High Prairie Wind Farm II, LLC, Cloud County Wind Farm, LLC, Pioneer Prairie Wind Farm I, LLC, Arlington Wind Power Project LLC, Flat Rock Windpower LLC, Flat Rock Windpower II LLC, Rail Splitter Wind Farm, LLC, Blue Canyon Windpower LLC, Wheat Field Wind Power Project LLC.
Description: Notice of Non-Material Change in Status of Arlington Wind Power Project LLC, *et. al.*
Filed Date: 05/01/2009.
Accession Number: 20090501–5261.
Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER04–449–019.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc *et al.* submits amendments to the Open Access Transmission Tariff and the Market Administration and Control Area Services Tariff.
Filed Date: 05/04/2009.
Accession Number: 20090505–0193.
Comment Date: 5 p.m. Eastern Time on Monday, May 18, 2009.

Docket Numbers: ER06–739–021; ER06–738–021; ER03–983–020; ER07–501–020; ER07–758–016; ER02–537–024; ER08–649–013.
Applicants: East Coast Power Linden Holding, LLC; Cogen Technologies Linden Venture, LP; Fox Energy Company LLC; Birchwood Power Partners, LP; Inland Empire Energy Center, LLC; Shady Hills Power Company, LLC; EFS Parlin Holdings LLC.
Description: Notice of Non-Material Change in Status—GE Companies re ''Noble II'' Passive Interest Consummation.
Filed Date: 05/05/2009.
Accession Number: 20090505–5045.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER06–1409–004; ER06–1407–004; ER06–1408–004; ER06–1413–004; ER08–1443–002; ER08–577–005; ER08–578–005; ER08–579–006.
Applicants: Noble Altona Windpark, LLC; Noble Bliss Windpark, LLC; Noble Ellenberg Windpark, LLC; Noble Clinton Windpark I, LLC; Noble Great Plains Windpark, LLC; Noble Chateaugay Windpark, LLC; Noble Wethersfield Windpark, LLC.
Description: Notice of Non-Material Change in Status of Noble Environmental Power, LLC.
Filed Date: 05/04/2009.
Accession Number: 20090504–5139.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER07–1356–010; ER07–1358–009; ER07–1112–008; ER07–1113–008; ER07–1116–007; ER07–1117–009; ER07–1118–009; ER00–2885–024; ER01–2765–023; ER09–609–001; ER05–1232–018; ER09–335–004; ER02–1582–021; ER02–2102–023; ER03–1283–018.
Applicants: J.P. Morgan Ventures Energy Corporation, BE Allegheny LLC, BE CA LLC, BE Ironwood LLC, BE KJ LLC, BE Rayle LLC, BE Alabama LLC, BE Louisiana LLC, Cedar Brakes I, LLC, Mohawk River Funding IV, LLC, Utility Contract Funding, LLC, Vineland Energy LLC, Central Power & Lime LLC, Cedar Brakes II, LLC.
Description: Notice of non-material change in status of J.P. Morgan Ventures Energy Corporation, *et al.*
Filed Date: 05/01/2009.
Accession Number: 20090501–5266.
Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER08–1203–001; EL08–85–001.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits Substitute First Revised Service Agreement No 660.
Filed Date: 05/01/2009.
Accession Number: 20090504–0188.
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: ER09–497–002.
Applicants: PJM Interconnection LLC.
Description: PJM Interconnection, LLC submits compliance filing.

Filed Date: 05/04/2009.
Accession Number: 20090505–0103.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER09–644–001.
Applicants: South Carolina Electric & Gas Company.
Description: South Carolina Electric & Gas Company submits revisions to its Order No 676–C compliance filing.
Filed Date: 05/04/2009.
Accession Number: 20090505–0102.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER09–650–002.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits the attached revised PJM Open Access Transmission Tariff sheets to comply with the directives in the FERC 4/3/09 Order Accepting Proposed Tariff Revisions Subject to Conditions.
Filed Date: 05/04/2009.
Accession Number: 20090505–0109.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER09–769–001.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits an amendment to its 2/25/09 proposed regarding revisions to the Midwest ISO Open Access Transmission Energy, etc.
Filed Date: 05/04/2009.
Accession Number: 20090505–0104.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER09–808–001.
Applicants: Reliant Energy Power Supply, LLC.
Description: Reliant Energy Power Supply, LLC submits revised cancelled Third Revised Sheet 1, FERC Electric Tariff, Original Volume 1 reflecting 5/1/09 as the effective date etc.
Filed Date: 05/04/2009.
Accession Number: 20090505–0125.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER09–831–001.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. *et al.* submits amended and restated executed large generator standard large generator interconnection agreement among the NYISO etc.
Filed Date: 05/05/2009.
Accession Number: 20090506–0170.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER09–1063–001.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits substitute sheets which contains the correct proposed Tariff and Operating revisions.
Filed Date: 05/01/2009.
Accession Number: 20090504–0190.
Comment Date: 5 p.m. Eastern Time on Wednesday, May 27, 2009.

Docket Numbers: ER09–1075–000.
Applicants: Falcon Energy LLC.
Description: Falcon Energy, LLC submits an Application for Market-Based Rate Authorization and Request for Waivers and Blanket Authorizations and Request for Expedited Treatment of Falcon Energy, LLC.
Filed Date: 05/04/2009.
Accession Number: 20090505–0105.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER09–1077–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Companys submits Seventh Revised Sheet 54 *et al.* to its FERC Electric Rate Schedule 424 to be effective 7/1/09.
Filed Date: 05/01/2009.
Accession Number: 20090504–0136.
Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09–1093–000.
Applicants: Florida Power Corporation.
Description: Florida Power Corporation et al submits its annual cost factor updates that implement the contractually authorized changes in certain cost components for interchange services provided by FPC.
Filed Date: 05/01/2009.
Accession Number: 20090505–0128.
Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: ER09–1094–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits its Requests to Terminate the Market Participant Agreement between the Midwest and Excelsior Ltd and Notice Regarding Continuing and Anticipated Default.
Filed Date: 05/04/2009.
Accession Number: 20090505–0106.
Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: ER09–1096–000.
Applicants: Kentucky Utilities Company.
Description: Kentucky Utilities Co. submits its annual update to the formula rates it charges the Kentucky Municipals for wholesale electric service.
Filed Date: 05/01/2009.
Accession Number: 20090505–0136.
Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES09–31–000.
Applicants: Entergy Texas, Inc.
Description: Application of Entergy Texas, Inc. for Authorization Under FPA Section 204.
Filed Date: 04/30/2009.
Accession Number: 20090430–5303.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ES09–32–000.
Applicants: System Energy Resources, Inc.
Description: Application of System Energy Resources, Inc., for Authorization Under FPA Section 204.
Filed Date: 04/30/2009.
Accession Number: 20090430–5305.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ES09–33–000.
Applicants: Northern Indiana Public Service Company.
Description: Application of Northern Indiana Public Service Company under New Docket for authorization under FPA Section 204 to Issue Short-Term Debt and submit Revised Exhibits of on 5/4/09.
Filed Date: 04/30/2009; 05/04/2009.
Accession Number: 20090430–5466; 20090504–5140.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ES09–34–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. Submits Application under Section 204 of the Federal Power Act For An Order Authorizing the Issuance of Securities.
Filed Date: 04/30/2009.
Accession Number: 20090504–0152.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: ES09–35–000.
Applicants: MDU Resources Group, Inc.
Description: Application of MDU Resources Group, Inc for authority to issue securities.
Filed Date: 04/30/2009.
Accession Number: 20090504–0033.
Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–68–002; OA08–138–001.
Applicants: Cleco Power LLC.
Description: Cleco Power LLC Filing to Comply with April 1, 2009 Order.

Filed Date: 05/01/2009.

Accession Number: 20090501–5269.

Comment Date: 5 p.m. Eastern Time on Friday, May 22, 2009.

Docket Numbers: OA08–145–001.

Applicants: NewCorp Resources Electric Cooperative.

Description: Supplement to Order No. 890–B Compliance Filing under OA08–145.

Filed Date: 05/04/2009.

Accession Number: 20090504–5136.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Docket Numbers: OA09–17–001.

Applicants: California Independent System Operator Corp.

Description: California Independent System Operator Corp submits Appendix L, Methodology to Assess Available Transfer Capability under OA09–17.

Filed Date: 04/30/2009.

Accession Number: 20090504–0151.

Comment Date: 5 p.m. Eastern Time on Thursday, May 21, 2009.

Docket Numbers: OA09–27–000.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc submits revised tariff sheets for the currently effective version of Attachment C to Entergy's Open Access Transmission Tariff under OA09–27.

Filed Date: 05/05/2009.

Accession Number: 20090506–0177.

Comment Date: 5 p.m. Eastern Time on Tuesday, May 26, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–11440 Filed 5–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL09–51–000]

Boralex Ashland LP Complainant, v. ISO New England Inc. Respondent; Notice of Complaint

May 11, 2009.

Take notice that on May 5, 2009, Boralex Ashland LP (Boralex Ashland) filed a complaint against ISO New England Inc. (ISO–NE) pursuant to section 206 of the Federal Power Act. Boralex Ashland alleges that ISO–NE failed to ensure that Boralex Ashland is afforded transmission priority for capacity imports over the New Brunswick interface pursuant to the terms of a grandfathered transmission service agreement between Boralex Ashland and Maine Electric Power Company, Inc., (MEPCO).

Boralex Ashland certifies that copies of the complaint were served on ISO–NE, MEPCO and affected state public utility commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on May 26, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–11462 Filed 5–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. AC09–86–000, AC09–86–001]

NW Pipeline Co.; Notice of Filing

May 11, 2009.

Take notice that on April 24, 2009 and May 5, 2009, NW Pipeline Co. submitted requests for waiver of the requirement to file the FERC Form No. 6 from January 1, 2008 to February 23, 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 or 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. 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: June 10, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–11467 Filed 5–15–09; 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; ER08–1178–000; ER09–241–000]

California Independent System Operator Corporation; Notice of FERC Staff Attendance

May 11, 2009.

The Federal Energy Regulatory Commission (Commission) hereby gives notice that on the following dates members of its staff will participate in teleconferences and meetings to be conducted by the California Independent System Operator (CAISO). The agenda and other documents for the teleconferences and meetings are available on the CAISO's Web site, *http://www.caiso.com.*

May 13, 2009: Exceptional Dispatch
May 18, 2009: Board of Governors Meeting
May 19, 2009: Systems Interface User Group
May 20, 2009: Settlements and Market Clearing User Group Congestion Revenue Rights
May 21, 2009: Payment Acceleration
May 22, 2009: Participating Intermittent Resource Program
May 26, 2009: Systems Interface User Group BPM Change Management Meeting
May 27, 2009: Settlements and Market Clearing User Group Congestion Revenue Rights
May 28, 2009: Payment Default Allocation Meeting

Sponsored by the CAISO, the teleconferences and meetings are open to all market participants, and staff's attendance is part of the Commission's ongoing outreach efforts. The teleconferences and meetings 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. E9–11463 Filed 5–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–522]

Duke Energy Carolinas, LLC; North Carolina and South Carolina, Catawba-Wateree Hydroelectric Project; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

May 11, 2009.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the North Carolina State Historic Preservation Officer (hereinafter, North Carolina SHPO), South Carolina State Historic Preservation Officer (hereinafter, South Carolina SHPO), and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR Part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (16 U.S.C. section 470f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Catawba-Wateree Hydroelectric Project No. 2232–522 (North Carolina SHPO Reference Number ER03–0359).

The programmatic agreement, when executed by the Commission and the North Carolina and South Carolina SHPOs would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the Catawba-Wateree Project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

Duke Energy Carolinas, LLC, as licensee for Catawba-Wateree Hydroelectric Project No. 2232, the Catawba Indian Nation, and the Eastern Band of Cherokee Indians have expressed an interest in this preceding and are invited to participate in consultations to develop the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for the aforementioned project as follows:

[1] 18 CFR section 385.2010.

Reid Nelson or Representative, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW., Washington, DC 20004.

Rebekah Dobrasko or Representative, Review and Compliance Coordinator, Archives & History Center, 8301 Parklane Road, Columbia, SC 29223.

Jennifer Huff or Representative, Duke Power, P.O. Box 1006, Mail Code EC12Y, Charlotte, NC 28201–1006.

Tyler Howe or Representative, Eastern Band of Cherokee Indians, Qualla Boundary, P.O. Box 455, Cherokee, NC 28719.

Renee Gledhill-Earley or Representative, North Carolina Department of Cultural Resources,4617 Mail Service Center, Raleigh, NC 27699–4617.

Dr. Wenonah G. Haire or Representative, IN THPO, 1536 Tom Stevens Rd, Rock Hill, SC 29730.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it NON–PUBLIC Information.

An original and 8 copies of any such motion must be filed with Kimberly D. Bose, the Secretary of the Commission (888 First Street, NE., Washington, DC 20426) and must be served on each person whose name appears on the official service list. Please put the project name Catawba-Wateree Hydroelectric Project and number P–2232–522 on the front cover of any motion. Motions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–11465 Filed 5–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Revised Open Access Transmission Service Tariff

AGENCY: Western Area Power Administration, DOE

ACTION: Notice of informal meeting and comment opportunity.

SUMMARY: The Western Area Power Administration (Western) is revising its Open Access Transmission Service Tariff (Tariff). Western intends to update provisions of its Tariff consistent with the Federal Energy Regulatory Commission's (FERC) amended *pro forma* open access transmission tariff. Changes are being proposed to Western's Tariff to the extent it is able to incorporate the *pro forma* provisions consistent with applicable statutory requirements. Publication of this **Federal Register** announces a public meeting and opportunity for informal comments on Western's revised Tariff prior to filing with the FERC.

DATES: Western will accept comments on the revised Tariff until the close of the informal comment period on July 1, 2009. Western will present an explanation of the revised Tariff at an informal public meeting to be held on June 2, 2009.

ADDRESSES: The public meeting location is Western Area Power Administration, 12155 W. Alameda Parkway, Lakewood, CO 80228. Send written comments to Corporation Communications, Western Area Power Administration, P.O. Box 281213, Lakewood, CO 80228; by e-mail to: *tariffcomments@wapa.gov*; or by fax to (720) 962–7059.

FOR FURTHER INFORMATION CONTACT: For substantive questions, contact Bob Kennedy, Tariff Project Manager, Western Area Power Administration, Lakewood, Colorado, at (720) 962–7249. For information on the informal meeting, copies of documents posted on Western's Web site, or for questions on how to submit comments, contact Carolyn Hinkley, Corporate Communications, Western Area Power Administration, Lakewood, Colorado, at (720) 962–7053. Both individuals may be contacted by e-mail at *tariffcomments@wapa.gov*.

SUPPLEMENTARY INFORMATION: Western is a Federal power marketing administration, charged with the responsibility of selling and transmitting wholesale electrical power from 56 power plants operated by the Bureau of Reclamation, the Corps of Engineers and the International Boundary and Water Commission. Created in 1977, pursuant to section 302 of the Department of Energy Organization Act, Western markets and transmits Federal power resources from various multi-purpose hydroelectric projects to customers in 15 Central and Western States. Western has four Customer Service Regional Offices and the Colorado River Storage Project Management Center, each referred to in the revised Tariff as a Regional Office.

Public utilities are required to file an open access transmission tariff with the FERC which provides non-discriminatory access to their transmission systems. While Western is not a public utility under section 205 of the Federal Power Act, Western has on file with the FERC an open access transmission tariff that is consistent with or superior to the FERC's *pro forma* tariff. Western's Tariff allows it to receive reciprocal treatment from public utilities that are subject to FERC jurisdiction. Open access filings by non-jurisdictional entities such as Western are referred to as ''safe harbor'' tariffs. Western's existing Tariff was approved by the FERC on September 6, 2007, and was effective on May 21, 2007, consistent with the FERC's June 28, 2007, Order (119 FERC ¶ 61,329).

On February 15, 2007, the FERC issued Order No. 890, *Preventing Undue Discrimination and Preference in Transmission Service* (FERC Stats. & Regs. ¶ 31,241 (2007)) (Order 890), to amend its regulations and the *pro forma* open access transmission tariff. Order 890, as amended, will help ensure that transmission service is provided on a nondiscriminatory, just and reasonable basis; provide the foundation for a competitive electric power market; and provide for more effective regulation and transparency in the operation of the transmission grid.

Order No. 890 requires all public utilities that own, control, or operate facilities used for transmission of electric energy in interstate commerce to modify their open access transmission tariffs to incorporate Order 890, and requires non-public utilities with a ''safe harbor'' Tariff to adopt the *pro forma* Order 890 tariff to retain ''safe harbor'' status. Western seeks to retain its ''safe harbor'' status through compliance with the spirit and intent of Order 890, as

amended, to the extent consistent with applicable law.

Western will accept comments on the revised Tariff until the close of the informal comment period on July 1, 2009. Western will present an explanation of the revised Tariff at an informal public meeting to be held on June 2, 2009, at 10 a.m. MDT, followed by a public comment forum at 11 a.m. MDT, both at Western's Corporate Services Office at 12155 W. Alameda Parkway in Lakewood, Colorado. These meetings are expected to conclude by 12:30 p.m. Western will accept oral and written comments at the comment forum and will accept written comments at any time during the informal comment period.

The revised Tariff, a summary of changes Western intends to make to its existing Tariff, and information about the Tariff process are posted on Western's Web site at *http://www.wapa.gov/transmission/oatt.htm*. Unless the comment period is extended or delayed, Western anticipates posting the revised Tariff and responses to comments received on Western's Web site and OASIS sites in August 2009. Western will post comments received at the public meeting or by letter, fax or e-mail to this Web site after the close of the comment period. Responses to comments will also be posted after they are developed. Western must receive written comments by the end of the informal comment period to ensure they are considered in Western's filing with the FERC.

As access to Western's facilities is controlled, any U.S. citizen wishing to attend meetings at Western must present a government-issued form of picture identification, such as a U.S. driver's license, U.S. passport, U.S. government ID, or U.S. military ID, at the time of the meeting. Foreign nationals should contact Western at least 15 days in advance of this meeting to obtain the necessary form for admittance to the meeting.

Dated: May 1, 2009.

Timothy J. Meeks,

Administrator.

[FR Doc. E9–11524 Filed 5–15–09; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2002–0011; FRL–8906–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium Under the Safe Drinking Water Act (Renewal); EPA ICR No. 2067.04, OMB Control No. 2040–0246

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before June 17, 2009.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2002–0011, to (1) EPA online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carrie Miller, EPA, Office of Ground Water and Drinking Water, Technical Support Center, 26 West Martin Luther King Drive (MS–140), Cincinnati, Ohio 45268; e-mail address: *miller.carrie@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 25, 2009 (74 *FR* 8529), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received three comments during the comment period, which are addressed in the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2002–0011, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC 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 Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

Use EPA's electronic docket and comment system at *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium under the Safe Drinking Water Act (Renewal).

ICR numbers: EPA ICR No. 2067.04, OMB Control No. 2040–0246.

ICR Status: This ICR is currently scheduled to expire on May 31, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Under the Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium (''Lab

QA Program''), EPA has approved voluntary laboratories that have demonstrated, and continue to demonstrate, proficient detection and enumeration of *Cryptosporidium* in surface water sources for public water systems. Approved laboratories that do not continue to meet the criteria for the Lab QA Program, including successful participation in tri-annual proficiency tests, may have their status downgraded to ''provisional'' or have their approval suspended.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 74.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Public and private water testing laboratories.

Estimated Number of Respondents: 65.

Frequency of Response: Annual.

Estimated Total Annual Hour Burden: 4,843.

Estimated Total Annual Cost: $411,729.40, includes $141,929.00 annualized capital or O&M costs.

Changes in the Estimates: There is an increase of 863 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. Changes in burden have occurred due to re-evaluation of hours for tasks, improved demonstration of capability and growth in the respondent universe. Inflation has increased all operation and maintenance and labor costs accordingly. EPA's original estimates for hours to participate and maintain the Lab QA Program were made before the program began. Because the program has matured and several years of QC data have been collected, the burden has changed for performing improved and refined procedures. The burden for some tasks has been estimated and will be re-evaluated as the program progresses.

Dated: May 12, 2009.

John Moses,

Director, Collection Strategies Division.

[FR Doc. E9–11520 Filed 5–15–09; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8906–3]

Science Advisory Board Staff Office; Notification of an Upcoming Meeting of the Science Advisory Board Committee on Science Integration for Decision Making

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public meeting of the SAB Committee to develop a work plan for its study.

DATES: The meeting dates are Tuesday, June 9, 2009 from 9 a.m. to 5 p.m. through Wednesday, June 10, 2009 from 8:30 a.m. to 12 p.m. (Eastern Time).

ADDRESSES: The meeting will be held at the Ritz-Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information about this meeting must contact Mr. Thomas Miller, Designated Federal Officer (DFO). Mr. Miller may be contacted at the EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail; (202) 343–9982; fax (202) 233–0643; or e-mail at *miller.tom@epa.gov.* General information about the EPA SAB, as well as any updates concerning the meeting announced in this notice, may be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 (FACA), notice is hereby given that the SAB Committee on Science Integration for Decision Making will hold a public meeting to develop a work plan for its evaluative study on EPA scientific assessment practices for decision making. The SAB was established pursuant to 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under FACA. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: EPA uses many kinds of scientific assessments for policy analysis and decision making. Previous studies by the SAB and National Research Council (NRC) have recommended improvements to strengthen EPA scientific assessment practices for decision making. In its 2000 report, Toward Integrated Environmental Decision-Making (available on the SAB Web site at *http://www.epa.gov/sab*), the SAB found that an integrated approach to scientific assessment and decision making was needed to effectively address new and complex environmental problems. In its 2008 report, Science and Decisions: Advancing Risk Assessment (National Academies Press, Washington, DC), the NRC recommended improvements in EPA's risk assessment processes to address the complexities of current problems and potential decisions, and ensure that the best available options for managing risks are considered. The SAB is undertaking a new study at the request of the EPA Administrator to evaluate the extent to which scientific assessment practices are integrated into EPA's environmental decision-making processes. The study will build upon the findings of the previous SAB and NRC studies, and recommend actions that EPA could take to improve the integration of scientific assessments for decision making.

To conduct this new study, the SAB Staff Office formed the ad hoc SAB Committee on Science Integration for Decision Making. The Committee is comprised of members of the chartered SAB and its standing committees. The roster and biosketches of members of the Committee are posted on the SAB Web site at *http://www.epa.gov/sab.* The purpose of this meeting is to develop a plan for the new study.

Availability of Meeting Materials: The meeting agenda and other material in support of this meeting are posted on the SAB Web site at *http://www.epa.gov/sab.*

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information on the topic of this advisory activity, and/or the group conducting the activity, for the SAB to consider during the advisory process.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Mr. Miller, DFO, in

writing (preferably via e-mail) at the contact information noted above, by June 2, 2009 to be placed on a list of public speakers for the meeting.

Written Statements: Written statements should be received in the SAB Staff Office by June 2, 2009 so that the information may be made available to the SAB Panel members for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). Submitters are requested to provide two versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Miller at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: May 12, 2009.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E9–11521 Filed 5–15–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, Comments Requested

May 11, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (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 estimate; (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.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 17, 2009. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission, or an e-mail to *PRA@fcc.gov.* To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://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, and (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.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: None.

Title: Section 10.350, Testing Requirements for the Commercial Mobile Alert System (CMAS).

Form Number: N/A.

Type of Review: New collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 146 respondents; 1,752 responses.

Estimated Time per Response: 0.00114155251 hours (2.5 seconds).

Frequency of Response: Monthly and on occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i) and (o), 201, 303(r), 403 and 606 of the Communications Act of 1934, as amended, as well as by sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act.

Total Annual Burden: 2 hours.

Total Annual Cost: None

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: As required by the Warning, Alert, and Response Network (WARN) Act, Public Law 109–347, the Federal Communications Commission adopted final rules to establish a Commercial Mobile Alert System (CMAS), under which Commercial Mobile Service (CMS) providers may elect to transmit emergency alerts to the public, *see Second Report and Order and Further Notice of Proposed Rulemaking, FCC 08–164.* In order to ensure that the CMAS operates efficiently and effectively, the Commission will require participating CMS providers to receive required monthly test messages initiated by the Federal Alert Gateway Administrator, to test their infrastructure and internal CMAS delivery systems by distributing the monthly message to their CMAS coverage area, and to log the results of the tests. The Commission will also require periodic testing of the interface between the Federal Alert Gateway and each CMS Provider Gateway to ensure the availability and viability of both gateway functions. The CMS Provider Gateways must send an acknowledgement to the Federal Alert Gateway upon receipt of these interface test messages.

The Commission, the Federal Alert Gateway and participating CMS providers will use this information to ensure the continued functioning of the CMAS, thus complying with the WARN Act and the Commission's obligation to promote the safety of life and property through the use of wire and radio communication.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–11537 Filed 5–15–09; 8:45 am]

BILLING CODE 6712–01–P

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 June 2, 2009.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Michael D. Fahrbach, Haven, Kansas; to acquire voting shares of Wheatland Investments, Inc., and thereby indirectly acquire voting shares of BankHaven, both in Haven, Kansas.

Board of Governors of the Federal Reserve System, May 13, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–11484 Filed 5–15–09; 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 June 1, 2009.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. The Pletsch Family which consists of Ronald L. Pletsch, individually and as trustee of the Robert L. Pletsch Trust and Robert L. Pletsch FBO Trust; Sharon L. Johnson, individually and as trustee of the Sharon L. Johnson FBO Trust; and Marilyn A. Pletsch, all of McNabb, Illinois; and Roger A. Pletsch, Lostant, Illinois; as a group acting in concert to retain control Tonica Bancorp, Inc., Tonica, Illinois, and thereby indirectly retain control of Illini State Bank, Oglesby, Illinois.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. James M. Smith, Jackson, Tennessee; to acquire voting shares of Tennessee Central Bancshares, Inc., and thereby indirectly acquire voting shares of Community South Bank, both of Parsons, Tennessee.

Board of Governors of the Federal Reserve System, May 12, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–11438 Filed 5–15–09; 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 11, 2009.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. Castle Creek Capital Partners III LP, Castle Creek Capital III LLC, Eggemeyer Capital LLC, Ruh Capital LLC, and Legions IV Advisory Corp., all of Rancho Santa Fe, California; to acquire up to 19.9 percent of the voting shares of Guaranty Bancorp, and thereby indirectly acquire voting shares of Guaranty Bank and Trust Company, both of Denver, Colorado.

Board of Governors of the Federal Reserve System, May 12, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–11437 Filed 5–15–09; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Evaluation of SAMHSA's Minority Fellowship Program (MFP)—NEW.

The Substance Abuse and Mental Health Services Administration's Center for Mental Health Services (CMHS) will conduct an independent evaluation of the Minority Fellowship Program (MFP).

In 1973, in response to a substantial lack of ethnic and racial minorities in the mental health professions, the Center for Minority Health at the National Institute of Mental Health established the Minority Fellowship

Program (MFP). Since its move to SAMHSA in 1992, the MFP has continued to facilitate the entry of minority graduate students and psychiatric residents into mental health careers and has increased the number of psychology, psychiatry, nursing, and social work professionals trained to provide mental health and substance abuse services to minority groups. Up until FY 2007, grantees have been limited to the American Nurses Association (ANA), the American Psychiatric Association (ApA), the American Psychological Association (APA), and the Council on Social Work Education (CSWE). The MFP is supported by funds from all three SAMHSA centers, the Center for Mental Health Services (CMHS), the Center for Substance Abuse Treatment (CSAT), and the Center for Substance Abuse Prevention (CSAP).

With input from SAMHSA staff, the four pre-2007 grantee organizations, and two advisory panels (of independent experts in the MFP and/or culturally competent behavioral health care, as well as consumer and family representatives), a logic model was designed and a set of data collection instruments have been developed for this evaluation. SAMHSA will employ information that is routinely collected under existing program requirements and also will be collecting additional data that also are necessary for the conduct of the evaluation. At the end of each grant year, the grantee organizations (the ANA, ApA, APA, and CSWE) will document their activities, accomplishments, and expenditures and assessment measures for the most recently completed fiscal year. In addition, each grantee will maintain a database with information on current and former Fellows. None of the data collection activities proposed for this evaluation will be redundant with these existing reporting requirements and data sources. The evaluation plan includes gathering information about the MFP from persons with different experiences and perspectives on the MFP. Accordingly, SAMHSA proposes to conduct the following new data collection activities:

On-line (Internet-based) surveys:

1. Current SAMHSA MFP Fellows in each of the four academic disciplines;

2. MFP Alumni who were in the four programs during the time the program was administered by SAMHSA; and

3. Current and former members of Selection and Advisory Committees in each of the four grantee programs.

Telephone Interviews:

1. Current and former SAMHSA MFP Staff and other SAMHSA officials involved in the MFP;

2. Current and former MFP Program Directors or Senior Staff in each of the four grantee programs; and

3. Staff in each of the grantee's host organizations (*i.e.* staff in the ANA, APA, ApA, and CSWE).

The surveys and interview protocols have been developed to include questions relevant to each of the respective stakeholder groups named above, with similar core questions asked across all groups.

The resulting data will identify (1) the historical context in which the MFP has operated; (2) the processes and activities established by SAMHSA and by the grantees to implement the MFP; (3) the perceptions about how well the SAMHSA MFP is performing; and (4) the ability of the program to achieve particular goals under its purview.

Each new cohort of Fellows will develop and support the following goals:

1. Training/mentoring ethnic/racial minority students and professionals in mental health/substance abuse treatment;

2. Increasing the number of ethnic/racial minority professionals in mental health/substance abuse treatment;

3. Increasing diversity in mental health/substance abuse leadership;

4. Increasing professional contributions in mental health/substance abuse treatment for minority populations;

5. Increasing institutional involvement of ethnic/racial minority professionals in the areas of mental health and substance abuse treatment; and

6. Increasing mental health and substance abuse services to minority communities.

The burden estimate for conducting the surveys and interviews under the evaluation plan for the MFP is as follows:

Surveys	Number of respondents	Responses per respondent	Burden per response (hrs.)	Total burden (hrs.)
Current SAMHSA MFP Fellows Survey	100	1	1.5	150
SAMHSA MFP Alumni Survey	850	1	2	1700
MFP Selection and Advisory Committees Survey	40	1	1.5	60
Current and former SAMHSA MFP Program Staff and other SAMHSA officials Interview Protocol	8	1	2	16
Current and former MFP Program Directors or Senior Staff (from the grantee organizations) Interview Protocol	8	1	2	16
Grantee host organization Interview Protocol	8	1	1	8
Totals	1,015	.....	.....	1,950

Written comments and recommendations concerning the proposed information collection should be sent by June 17, 2009 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: May 11, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–11517 Filed 5–15–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: FPLS Child Support Services Portal Registration (FCSSP).

OMB No.: New collection.

Description: The Federal Office of Child Support Enforcement (OCSE) is implementing the Federal Parent Locator Service (FPLS) Child Support Services Portal (FCSSP) for users of the FPLS to access online web applications. The portal Registration Process will provide OCSE, States, employers and multistate financial institutions the ability to create a secure account to view data for their respective applications. In order for users to access the portal, registration is required.

Respondents: OCSE, Employers, Multistate Financial Institutions and State Child Support Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Registration Screens: Employers, Financial Institutions and State Child Support Agencies	520	1	0.10	52

Estimated Total Annual Burden Hours: 52.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 13, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–11495 Filed 5–15–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Drug Testing Advisory Board (DTAB) will meet on June 2 and 3, 2009.

The meeting is open to the public and will include discussion of the Mandatory Guidelines for Federal Workplace Drug Testing Programs, including implementation of the revised Mandatory Guidelines; Federal drug testing updates from the Department of Transportation, the Department of Defense, and the Nuclear Regulatory Commission; review of significant changes in the revised Mandatory Guidelines; and presentations on immunoassay kit issues, proficiency testing practice sets and rounds, instrumented initial test facilities, urine collector/collection site procedures, and Medical Review Officer training and certification. There will also be updates on a revised Federal custody and control form and expanded confirmatory drug test technologies.

DTAB members and invited presenters will participate in this meeting through remote internet connection. On-site attendance by the public will be limited to space available. The meeting can also be accessed by the public via teleconference. To obtain teleconference call-in numbers and access codes, to make arrangements to attend on-site, or to request special accommodations for persons with disabilities, please communicate with DTAB's Program Assistant, Ms. Giselle Hersh (see contact information below).

SAMHSA would like to ensure that advisory committee meetings proceed in an orderly fashion, are conducted in a safe and secure environment, that the right of free speech is protected, and that the ability of SAMHSA Advisory Committees to accomplish their objectives is not disrupted. Therefore, the following procedures will be followed at all DTAB meetings:

- Attendees are subject to security screening, including identification (driver's license) review, metal detector screening, and inspection of briefcases, packages, etc. Each attendee will be issued a security badge that must be worn at all times while in the building.
- Any interested person who wishes to be assured of the right to make an oral presentation during the Public Comment portion of the DTAB meeting must register with Ms. Hersh before the meeting.
- Those who have not registered before the meeting will only be invited to speak at the discretion of the Chair and should submit their request to the Designated Federal Official on the day of the meeting.
- Public Comment participants who are designated to speak may be questioned only by the Chair or DTAB members.
- Audience members may not present comments or questions to DTAB members unless recognized by the Chair.
- Attendees at the meeting are asked to maintain order and not display behavior that is disruptive to the meeting (*i.e.,* shouting from the audience, loud outbursts).
- We ask that attendees not approach the DTAB table area during the meeting without permission from the Chair or the Designated Federal Official.
- The DTAB Chair or Designated Federal Official will note on the record any disruptive behavior and will ask the person to cease the behavior or else leave the meeting room.

Substantive program information, a summary of the meeting, and a roster of DTAB members may be obtained as

soon as possible after the meeting, either by accessing the SAMHSA Committee Web site, *https://www.nac.samhsa.gov/DTAB/meetings.aspx,* or by contacting Ms. Hersh. The transcript for the meeting will also be available on the SAMHSA Committee Web site within three weeks after the meeting.

Committee Name: Substance Abuse and Mental Health Services Administration Drug Testing Advisory Board.

Date/Time/Type: June 2, 2009 from 10 a.m. to 4:30 p.m. EDT: OPEN. June 3, 2009 from 10 a.m. to 1 p.m. EDT: OPEN.

Place: Sugarloaf and Seneca Conference Rooms, 1 Choke Cherry Road, Rockville, Maryland 20857.

Contact: Ms. Giselle Hersh, Program Assistant, SAMHSA Drug Testing Advisory Board, 1 Choke Cherry Road, Room 2–1042, Rockville, Maryland 20857, Telephone: 240–276–2600, Fax: 240–276–2610, E-mail: *Giselle.Hersh@samhsa.hhs.gov*.

Toian Vaughn,

Committee Management Officer, Substance Abuse and Mental Health, Services Administration.

[FR Doc. E9–11427 Filed 5–15–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders C.

Date: June 8–9, 2009

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: William C. Benzing, PhD, Scientific Review Administrator, Scientific Review Branch, Division Of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 496–0660, *benzingw@mail.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders A.

Date: June 24, 2009

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Richard D. Crosland, PhD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders B.

Date: June 25–26, 2009.

Time: 7 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: State Plaza Hotel, 2117 E Street, NW., Washington, DC 20037.

Contact Person: Ernest W Lyons, PhD, Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–4056.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 12, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–11583 Filed 5–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review R13.

Date: June 17, 2009.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call)

Contact Person: Mary Kelly, Scientific Review Officer, Scientific Review Branch, National Inst. of Dental & Craniofacial Research, NIH 6701 Democracy Blvd., room 672, MSC 4878, Bethesda, MD 20892–4878, 301–594–4809, *mary_kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–11486 Filed 5–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel—NIBIB Training 2009/10.

Date: June 26, 2009.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Blvd., 242, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: Ruixia Zhou, Ph.D., Scientific Review Officer, 6707 Democracy Boulevard, Suite 957, Bethesda, MD 20892. 301–496–4773. *zhour@mail.nih.gov.*

Dated: May 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–11487 Filed 5–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice Correction

The notice published in the May 8, 2009, **Federal Register** (74 FR 21698) announcing the opportunity to register to attend the July 28–29, 2009, NIH-sponsored workshop entitled ''Soy Protein and Isoflavones Research: Challenges in Designing and Evaluating Intervention Studies'' contains an errant e-mail address for registration purposes. More specifically, the e-mail address provided in line 8 of the Registration section of the notice should read: *twallich@csionweb.com.* If you do not have access to e-mail, please call Ms. Wallich at 301–670–0270 (not a toll-free number).

Dated: May 11, 2009.

Paul M. Coates,

Director, Office of Dietary Supplements, National Institutes of Health.

[FR Doc. E9–11488 Filed 5–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review of R21, R03 and R34 applications.

Date: June 15, 2009.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, DEA/SRB, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878. 301–594–4861. *mooremar@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review F31s, F32s, K08.

Date: June 23, 2009.

Time: 11:30 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Raj K. Krishnaraju, Ph.D., MS, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr. Rm. 4AN 32J, Bethesda, MD 20892. 301–594–4864. *kkrishna@nidcr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–11489 Filed 5–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Initial Review Group, Subcommittee J—Population and Patient-Oriented Training.

Date: June 17, 2009.

Time: 7:45 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Ilda M. Mckenna, PhD, Scientific Review Officer, Research Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8111, Bethesda, MD 20892. 301–496–7481. *mckennai@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–11483 Filed 5–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; SBIR Phase II Bridge Awards to Accelerate the Development of New Cancer Therapies and Cancer Imaging Technologies Toward Commercialization.

Date: June 10–11, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Lalita D. Palekar, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7141, Bethesda, MD 20892, 301–496–7575, *palekarl@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Special Emphasis Panel for Education Grants.

Date: June 10, 2009.

Time: 8 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Lynn M. Amende, PhD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8105, Bethesda, MD 20892–8328, 301–451–4759, *amendel@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Pediatric Preclinical Testing Program.

Date: July 14, 2009.

Time: 11:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 210, Rockville, MD 20852, (Telephone Conference Call)

Contact Person: Viatcheslav A Soldatenkov, MD, PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd, Room 8057, Bethesda, MD 20892–8329, 301–451–4758, *soldatenkovv@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Initial Review Group Subcommittee H—Clinical Cooperative Group.

Date: July 20–21, 2009.

Time: 8 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Timothy C. Meeker, MD, PhD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8103, Bethesda, MD 20892, (301) 594–1279, *meekert@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 11, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–11482 Filed 5–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1835–DR; Docket ID FEMA–2008–0018]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1835–DR), dated April 28, 2009, and related determinations.

DATES: *Effective Date:* April 28, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 28, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Alabama resulting from severe storms, flooding, tornadoes, and straight-line winds during the period of March 25 to April 3, 2009, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (''the Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Alabama.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that Albert Lewis, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Alabama have been designated as adversely affected by this major disaster:

Baldwin, Bullock, Butler, Choctaw, Clarke, Coffee, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Henry, Houston, Lamar, Marengo, Perry, Russell, Washington, and Wilcox Counties for Public Assistance.

All counties within the State of Alabama are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11500 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1835–DR; Docket ID FEMA–2008–0018]

Alabama; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Alabama (FEMA–1835–DR), dated April 28, 2009, and related determinations.

DATES: *Effective Date:* May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Alabama is hereby amended to include Individual Assistance in the

following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 28, 2009.

Covington, Geneva, and Houston Counties for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11511 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1833–DR; Docket ID FEMA–2008–0018]

Georgia; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Georgia (FEMA–1833–DR), dated April 23, 2009, and related determinations.

DATES: *Effective Date:* May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Georgia is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 23, 2009.

Camden County for Individual Assistance.

Ben Hill, Montgomery, and Tattnall Counties for Individual Assistance (already designated for Public Assistance).

Lee, McIntosh, and Seminole Counties for Public Assistance.

Brantley County for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11510 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0018; Internal Agency Docket No. FEMA–1833–DR]

Georgia; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Georgia (FEMA–1833–DR), dated April 23, 2009, and related determinations.

DATES: *Effective Date:* April 13, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective April 13, 2009.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator,

Federal Emergency Management Agency.

[FR Doc. E9–11509 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1830–DR; Docket ID FEMA–2008–0018]

Minnesota; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Minnesota (FEMA–1830–DR), dated April 9, 2009, and related determinations.

DATES: *Effective Date:* May 6, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Minnesota is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 9, 2009.

Beltrami, Marshall, and Polk Counties for Individual Assistance (already designated for Public Assistance).

The Red Lake Band of Chippewa Indians for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—

Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11508 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1831–DR; Docket ID FEMA–2008–0018]

Florida; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–1831–DR), dated April 21, 2009, and related determinations.

DATES: *Effective Date:* May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 21, 2009.

Dixie and Gilchrist Counties for Individual Assistance.

Hamilton and Madison Counties for Public Assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11507 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1835–DR; Docket ID FEMA–2008–0018]

Alabama; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Alabama (FEMA–1835–DR), dated April 28, 2009, and related determinations.

DATES: *Effective Date:* May 4, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Alabama is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 28, 2009.

DeKalb County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11505 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1833–DR; Docket ID FEMA–2008–0018]

Georgia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Georgia (FEMA–1833–DR), dated April 23, 2009, and related determinations.

DATES: *Effective Date:* May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Georgia is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 23, 2009.

Calhoun, Cook, Crisp, Dodge, Irwin, Jeff Davis, Monroe, Pulaski, Tattnall, Telfair, Thomas, Turner, Upson, Wayne, and Wilcox Counties for Public Assistance.

Brooks, Decatur, Dougherty, Lanier, Miller, Tift, Wheeler, and Worth Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11504 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1831–DR] Docket ID FEMA–2008–0018

Florida; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–1831–DR), dated April 21, 2009, and related determinations.

DATES: *Effective Date:* May 1, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 21, 2009.

Escambia, Franklin, Gadsden, Leon, and Wakulla Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11502 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1834–DR; Docket ID FEMA–2008–0018]

Arkansas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–1834–DR), dated April 27, 2009, and related determinations.

DATES: *Effective Date:* May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Arkansas is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 27, 2009.

Ashley County for Individual Assistance (already designated for Public Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11501 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1831–DR; Docket ID FEMA–2008–0018]

Florida; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–1831–DR), dated April 21, 2009, and related determinations.

DATES: *Effective Date:* May 5, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 5, 2009.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Nancy Ward,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. E9–11512 Filed 5–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2008–0333]

Delaware River and Bay Oil Spill Advisory Committee; Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The Delaware River and Bay Oil Spill Advisory Committee

(DRBOSAC) will meet in Philadelphia, PA to discuss various issues to improve oil spill prevention and response strategies for the Delaware River and Bay. This meeting will be open to the public.

DATES: The Committee will meet on Wednesday, June 17, 2009, from 10 a.m. to 1 p.m. This meeting may close early if all business is finished. Requests to make oral presentations should reach the Coast Guard on or before June 8, 2009. Written material, and requests to have a copy of your material distributed to each member of the committee, should reach the Coast Guard on or before June 10, 2009.

ADDRESSES: The Committee will meet at Coast Guard Sector Delaware Bay, 1 Washington Ave., Philadelphia, PA 19147. Send written material and requests to make oral presentations to Gerald Conrad, Liaison to the Designated Federal Officer (DFO) of the DRBOSAC, at the address above. This notice and any documents identified in the **SUPPLEMENTARY INFORMATION** section as being available in the docket may be viewed online, at *http://www.regulations.gov,* using docket number USCG–2008–0333.

FOR FURTHER INFORMATION CONTACT: Gerald Conrad, Liaison to the DFO of the DRBOSAC, telephone 215–271–4824.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

Agenda of the Meeting

The agenda for the June 17 meeting will be as follows:

(1) Opening comments.
(2) Introductions.
(3) Administrative announcements.
(4) Pre-approved presentations from the public.
(5) Debriefs from each DRBOSAC Sub-committee.
(6) Public comments.
(7) Future Committee business.
(8) Closing.

More information and detail on the meeting will be available at the committee Web site, located at *https://homeport.uscg.mil/drbosac.* Additional detail may be added to the agenda up to June 10, 2009.

Procedural

This meeting is open to the public. All persons entering the building will have to present identification and may be subject to screening. Please note that the meeting may close early if all business is finished.

The public will be able to make oral presentations during the meeting when given the opportunity to do so. Members of the public may seek pre-approval for their oral presentations by contacting the Coast Guard no later than June 8, 2009. The public may file written statements with the committee; written material should reach the Coast Guard no later than June 10, 2009. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 35 copies to the Liaison to the DFO no later than June 10, 2009, and indicate that the material is to be distributed to committee members in advance of the June 17 meeting.

Please register your attendance with the Liaison to the DFO no later than June 10, 2009.

Information on Services for Individuals With Disabilities

For information on facilities, or services for individuals with disabilities, or to request special assistance at the meeting, contact the Liaison to the DFO as soon as possible.

Dated: 5 May 2009.

David L. Scott,

Captain, U.S. Coast Guard, Commander, Sector Delaware Bay, Designated Federal Officer.

[FR Doc. E9–11528 Filed 5–15–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0022]

Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants; NUREG–0654/FEMA–REP–1/Rev. 1 Supplement 4 and FEMA Radiological Emergency Preparedness Program Manual

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) is accepting comments on two documents: the proposed Supplement 4 (Supplement 4) to ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants,'' NUREG–0654/FEMA–REP–1/Rev. 1 (NUREG–0654), and the proposed Radiological Emergency Preparedness Program Manual (the REPP Manual). NUREG–0654 is a joint document issued by the Nuclear Regulatory Commission (NRC) and FEMA that contains the Evaluation Criteria against which FEMA and the NRC measure the emergency preparedness plans of Nuclear Power Plant owners and operators and the State, local, and Tribal jurisdictions in which they sit. The REPP Manual provides additional implementation guidance for State, local, and Tribal jurisdictions.

Supplement 4 revises and provides additional offsite requirements for emergency preparedness programs at the Nation's nuclear power plants, as well as requirements for backup means for alert and notification, and coordination between licensees and offsite responders. The REPP Manual consolidates all of the FEMA Radiological Emergency Preparedness Program's many operative guidance and policy documents into one location, and provides additional guidance on the proposed changes in Supplement 4.

DATES: Comments must be received on or before August 3, 2009.

ADDRESSES: The proposed Supplement 4 and the proposed REPP Manual are available online at *http://www.regulations.gov.* You may also view hard copies of these documents at the Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472. You may submit comments on the proposed Supplement 4 and the proposed REPP Manual, identified by Docket ID FEMA–2008–0022, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

E-mail: FEMA–POLICY@dhs.gov. Include ''Docket ID FEMA–2008–0022'' in the subject line of the message.

Fax: 703–483–2999.

Mail/Hand Delivery/Courier: Regulation & Policy Team, Office of Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

Instructions: All submissions received must include the agency name and Docket ID. Also, because FEMA is collecting comments on two documents in this docket, please also identify the document to which your comment applies. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the

Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov,* and search for Docket ID ''FEMA–2008–0022.'' Submitted comments may also be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Craig Fiore, Deputy Chief, Radiological Emergency Preparedness Branch, Technological Hazards Division, National Preparedness Directorate, *craig.fiore@dhs.gov,* (703) 605–4218.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) is accepting comments on the proposed Supplement 4 to ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants,'' NUREG–0654/FEMA–REP–1/Rev. 1 (Supplement 4), and the proposed Radiological Emergency Preparedness Program Manual (the REPP Manual). The substance of these proposed policies conforms to changes proposed in the Nuclear Regulatory Commission (NRC) Notice of Proposed Rulemaking entitled ''Enhancements to Emergency Preparedness Regulations.'' The NRC rulemaking can be found on *http://www.regulations.gov* in Docket ID NRC–2008–0122.

Supplement 4

As part of the domestic licensing of commercial nuclear power plants (NPPs), FEMA and the NRC evaluate emergency preparedness activities at these facilities. Preparedness activities for a radiological incident at an NPP are an essential part of planning for communities that could be affected by such events. FEMA's role is to review and provide findings to the NRC on planning and preparedness activities of State, local, and Tribal governments, licensee emergency response organizations, if applicable, and other supporting organizations (collectively referred to as Offsite Response Organizations or OROs). FEMA performs this activity before the NRC issues a license to operate a NPP, as well as provides ongoing certifications that planning and preparedness efforts are effective and consistent with relevant regulatory guidelines. The NRC evaluates applicants for NPP site permits, construction permits, and operating licenses. As a part of that evaluation, the NRC reviews the onsite facility licensees' emergency plans and preparedness efforts.

NPP licensees and OROs must show that they have plans in place that provide a reasonable assurance that adequate protective measures will be taken to protect public health and safety in the event of an incident at an NPP. The NRC evaluates the adequacy of the onsite plans and capabilities, and FEMA evaluates the adequacy of the offsite plans and capabilities by applying 16 planning standards. The planning standards are contained in FEMA regulations at 44 CFR 350.5 and NRC regulations at 10 CFR part 50 (including Appendix E).

The NRC and FEMA have also developed a number of evaluation criteria that the agencies use to determine compliance with each of the 16 planning standards. Those evaluation criteria are contained in NUREG–0654 which is incorporated by reference into FEMA's regulations at 44 CFR part 350, as well as contained in NRC regulations at 10 CFR part 50. As such, the criteria established in NUREG–0654 are binding upon both NPP licensees and the OROs responsible for offsite emergency preparedness planning in the areas surrounding the NPP.

Supplement 4 adds to, and in limited situations revises, evaluation criteria contained in NUREG–0654. The changes in Supplement 4 are being proposed to address four emerging issues: (1) Preparing for and responding to hostile action-based (HAB) events at NPPs; (2) enhancing scenario realism and reducing negative training and pre-conditioned responses to exercise participants; (3) aligning the offsite Radiological Emergency Preparedness (REP) Program with the national preparedness initiatives under Homeland Security Presidential Directives 5 and 8; and (4) ensuring backup means are in place for alert and notification systems.

As previously mentioned, NUREG–0654 is currently incorporated by reference into FEMA's regulations at 44 CFR part 350. Should Supplement 4 become final, FEMA intends to update the incorporation by reference to include not only the original NUREG–0654, but also its supplements, including Supplement 4. In doing so, FEMA intends to make the substance proposed in Supplement 4 binding on OROs.

The REPP Manual

The REPP Manual is intended to be the principal source of policy and guidance for FEMA's REP Program. The REPP Manual provides an overview along with additional guidance to aid ORO planners, responders, and emergency management professionals. This manual provides additional guidance with respect to the planning standards established in 44 CFR part 350 and the evaluation criteria contained in NUREG–0654 and its Supplements. The REPP Manual does not create new requirements or evaluation criteria.

In August 2002, FEMA released a Draft REPP Manual for interim use by OROs, NPP licensees, FEMA Regional staff, the NRC, and other stakeholders in developing plans or assessing planning and preparedness in communities surrounding the Nation's NPPs. The document currently available for comment is an updated version of the REPP Manual. This document contains only proposed guidance, however, and it will not be effective until comments have been received and adjudicated by FEMA, and the final version has been published.

The proposed REPP Manual incorporates and updates previously-issued FEMA Guidance Memoranda (GMs), policy memoranda, and some FEMA–REP series documents. The REPP Manual effectively retires these documents from use as independent resources. Guidance on specific technical areas and other REP Program documents that FEMA was unable to incorporate have been retained as ''technical references.'' The remaining stand-alone FEMA–REP series documents and these technical references are listed in Appendix C and cited in the applicable parts of this proposed REPP Manual. The retired guidance documents are listed in Appendix D as a historical resource. To the greatest extent possible, FEMA will issue all future REP Program guidance as amendments to the applicable parts of the REPP manual.

In updating the 2002 Draft REPP Manual, FEMA made important changes to both the language and the substance of the document. First, FEMA conducted a ''plain English'' review to produce a more easily understandable document by considering the audience's needs and avoiding unnecessary words, jargon, technical terms, and long and ambiguous sentences. Second, the new REPP Manual provides guidance on the integration of terms and concepts found in the National Incident Management System/Incident Command System and in the National Exercise Program, Homeland Security Exercise Evaluation Program (HSEEP). (**Note:** Because both HSEEP and REP are evolving programs, additional revisions and modifications may be necessary.) Further, the REPP

Manual provides additional guidance on the new or revised evaluation criteria proposed in Supplement 4 and the NRC's proposed rulemaking.

Authorities: FEMA proposes to issue the new REPP Manual, and FEMA and the NRC propose to issue Supplement 4 to NUREG–0654 under the authority of: Reorganization Plan No. 3 of 1978; Presidential Directive of Dec. 7, 1979; Executive Order 12148 ''Federal Emergency Management''; section 201 of the Disaster Relief Act of 1974, 42 U.S.C. 5131, as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Pub. L. 93–288); Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.,* as amended by the Post Katrina Emergency Management Reform Act (Pub. L. 109–295); NRC Authorization Acts of 1980 (Pub. L. 96–295) and 1982–1983 (Pub. L. 97–415); Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*; Energy Reorganization Act of 1974, 42 U.S.C. 5801 *et seq.*; Energy Policy Act of 2005, 42 U.S.C. 15801 note; Homeland Security Presidential Directive 5: Management of Domestic Incidents; and Homeland Security Presidential Directive 8: National Preparedness; 10 CFR part 50; 10 CFR part 50, Appendix E; 44 CFR part 350.

Dated: May 5, 2009.

David Garratt,

Acting Deputy Administrator, Federal Emergency Management Agency.

[FR Doc. E9–10951 Filed 5–15–09; 8:45 am]

BILLING CODE 9110–21–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5312–N–01]

Notice of Availability: Program Requirements for the Green Retrofit Program for Multifamily Housing Under the American Recovery and Reinvestment Act of 2009

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD announces the availability of program requirements, including eligibility requirements and application instructions, for the Green Retrofit Program authorized under Title XII of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, approved February 17, 2009). The Green Retrofit Program makes funding available to multifamily owners for adopting measures that will meet requirements for green project operation. The notice establishing the program requirements is available on the HUD Web site at: *http://www.hud.gov/recovery/.*

FOR FURTHER INFORMATION CONTACT: Theodore K. Toon, Deputy Assistant Secretary, Office of Affordable Housing Preservation, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 6230, Washington, DC 20410; telephone 202–708–0001 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

Dated: May 13, 2009.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E9–11556 Filed 5–13–09; 4:15 pm]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0103

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request regarding noncoal reclamation, found at 30 CFR Part 875, has been forwarded to the Office of Management and Budget (OMB) for renewed approval. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB June 17, 2009, in order to be assured of consideration.

ADDRESSES: Comments may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Department of the Interior Desk Officer, via e-mail at *OIRA_Docket@omb.eop.gov,* or by facsimile to (202) 395–5806. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 202–SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov.* Please reference 1029–0103 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact John A. Trelease at (202) 208–2783, or electronically at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. OSM has submitted a request to OMB to renew its approval of the collection of information for 30 CFR Part 875—Noncoal Reclamation. OSM is requesting a 3-year term of approval for this information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Responses are required to obtain a benefit. The OMB control number for this collection of information is listed in 30 CFR part 875, which is 1029–0103.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on February 27, 2009 (74 FR 8985). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR Part 875—Noncoal Reclamation.

OMB Control Number: 1029–0103.

Summary: This part establishes procedures and requirements for State and Indian tribes to conduct noncoal reclamation using abandoned mine land funding. The information is needed to assure compliance with the Surface Mining Control and Reclamation Act of 1977.

Bureau Form Numbers: None.

Frequency of Collection: Once.

Description of Respondents: State governments and Indian Tribes.

Total Annual Responses: 1.

Total Annual Burden Hours: 100.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the places listed under **ADDRESSES**. Please refer to control number 1029–0103 in all correspondence.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment–including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 12, 2009.

Alfred E. Whitehouse,

Acting Chief, Division of Regulatory Support.

[FR Doc. E9–11498 Filed 5–15–09; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0027

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval to continue the collections of information under 30 CFR Part 740, Surface Coal Mining and Reclamation Operations on Federal Lands. This information collection activity was previously approved by the Office of Management and Budget (OMB), and assigned clearance numbers 1029–0027.

DATES: Comments on the proposed information collection must be received by July 17, 2009, to be assured of consideration.

ADDRESSES: Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 202–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact John Trelease, at (202) 208–2783 or at the e-mail address listed above.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implements provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that OSM will be submitting to OMB for approval. This collection is contained in 30 CFR Part 740, General requirements for surface coal mining and reclamation operations on Federal lands (1029–0027). OSM will request a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection requests to OMB.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: 30 CFR Part 740—General requirements for surface coal mining and reclamation operations on Federal lands.

OMB Control Number: 1029–0027.

Summary: Section 523 of SMCRA requires that a Federal lands program be established to govern surface coal mining and reclamation operations on Federal lands. The information requested is needed to assist the regulatory authority determine the eligibility of an applicant to conduct surface coal mining operations on Federal lands. Responses are required to obtain a benefit.

Frequency of Collection: Once.

Description of Respondents: Applicants for surface coal mine permits on Federal lands, and State Regulatory Authorities.

Total Annual Responses: 18.

Total Annual Burden Hours for Applicants: 1,285.

Total Annual Burden Hours for States: 400.

Total Annual Burden for All Respondents: 1,685.

Dated: May 12, 2009.

Alfred E. Whitehouse,

Acting Chief, Division of Regulatory Support.

[FR Doc. E9–11503 Filed 5–15–09; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2009–N0099; 96300–1671–0000–P5]

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for permits to conduct certain activities with endangered species. The Endangered Species Act requires that we invite public comment on these permit applications.

DATES: Written data, comments or requests must be received by June 17, 2009.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Submit your written data, comments, or requests for copies of the complete applications to the address shown in **ADDRESSES**.

Applicant: Oregon Zoo, Portland, OR, PRT–210720

The applicant requests a permit to import five captive-bred male African wild dogs (*Lycaon pictus*) from the Mountain View Farms Conservation and Breeding Center, Langley, British Columbia, Canada, for the purpose of enhancement of the survival of the species.

Applicant: University of Florida, Gainesville, FL, PRT–214094

The applicant requests a permit to export root sections from Michaux's sumac (*Rhus michauxii*) to the Universidade Federale de ViCosa, Minas Gerais, Brazil, for the purpose of enhancement of the species through scientific research. This notification covers activities conducted by the applicant for a five-year period.

Applicant: George Carden Circus Intl., Inc., Springfield, MO, PRT–211013 and 128999.

The applicant requests permits to re-export (211013) and re-import (128999) one male captive-born Asian Elephant (*Elephas maximus*) to worldwide locations for the purpose of enhancement of the species through conservation education. This notification covers activities to be conducted by the applicant over a three-year period.

The following applicants request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Mark C. Zimmerman, East Brunswick, NJ, PRT–213650

Applicant: Thomas G. Dullinger, Sandy Hook, CT, PRT–200284

Dated: May 8, 2009.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E9–11485 Filed 5–15–09; 8:45 am]

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDT000000.L11200000.DD0000.241A.00]

Notice of Public Tour, Twin Falls District Resource Advisory Council Tour, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA), the Federal Advisory Committee Act of 1972 (FACA), and the Federal Lands Recreation Enhancement Act of 2004 (FLREA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Twin Falls District Resource Advisory Council (RAC) will attend a tour as indicated below.

DATES: On June 12, 2009, the Twin Falls District RAC members will tour a number of projects within the Burley Field Office of the BLM. RAC members will meet at the Burley Field Office (15 East 200 South, Burley, Idaho 83318) at 8:30 a.m. The tour should conclude by 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Heather Tiel-Nelson, Twin Falls District, Idaho, 2536 Kimberly Road, Twin Falls, Idaho 83301, (208) 736–2352.

SUPPLEMENTARY INFORMATION: The 15-member RAC advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in Idaho. During this tour, the Twin Falls District RAC members will learn about the Jim Sage chaining project on the Jim Sage Mountain near Almo, Idaho, the U.S. Geothermal Power Plant in the upper Raft River Valley and the BLM managed portion of the Castle Rocks Interagency Recreation Area. Additional topics may be added and will be included in local media announcements. More information is available at *http://www.blm.gov/id/st/en/res/resource_advisory.3.html.* RAC meetings and tours are open to the public. For further information about the tour, please contact Heather Tiel-Nelson, Public Affairs Specialist for the Twin Falls District, BLM at (208) 736–2352.

Dated: May 12, 2009.

Jenifer Arnold,

District Manager (Acting).

[FR Doc. E9–11519 Filed 5–15–09; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–FHC–2009–N0100; 94300–1122–0000–Z2]

Wind Turbine Guidelines Advisory Committee; Announcement of Public Teleconference and Webcast

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public teleconference and webcast.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), will host a Wind Turbine Guidelines Advisory Committee (Committee) meeting via webcast and teleconference, on June 12, 2009. This meeting is open to the public but will be limited to 75 public participants. The meeting agenda will include a briefing by the Synthesis Subcommittee to the full Committee on the third draft Recommendations to the Secretary of the Interior.

DATES: *Meeting:* The meeting will take place on June 12, 2009, from 1 to 3 p.m. Eastern Time.

Pre-meeting Public Registration: If you are a member of the public wishing to participate in the June 12, 2009, meeting, you must register online by June 5, 2009 (see ''Meeting Participation Information'' in **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Rachel London, Division of Habitat and Resource Conservation, U.S. Fish and Wildlife Service, Department of the Interior, (703) 358–2161.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 2007, the Department of the Interior (Interior) published a notice of establishment of the Committee and call for nominations in the **Federal Register** (72 FR 11373). The Committee's purpose is to provide advice and recommendations to the Secretary of the Interior (Secretary) on developing effective measures to avoid or minimize impacts to wildlife and their habitats related to land-based wind energy facilities. The Committee's Charter is subject to biennial renewal. The Committee meets approximately four times per year, and all Committee members serve without compensation.

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.), a copy of the Committee's charter has been filed with the Committee Management Secretariat, General Services Administration; Committee on Environment and Public Works, U.S.

Senate; Committee on Natural Resources, U.S. House of Representatives; and the Library of Congress. The Secretary appointed 22 individuals to the Committee on October 24, 2007, representing the varied interests associated with wind energy development and its potential impacts to wildlife species and their habitats. We held five Committee meetings in 2008, and held four meetings in January and March of 2009. All Committee meetings are open to the public. The public has an opportunity to comment at all Committee meetings.

Meeting Participation Information

This meeting is open to the public and is limited to 75 registrants. Members of the public planning to participate must register at *http://www.fws.gov/habitatconservation/windpower/wind_turbine_advisory_committee.html* by close of business, June 5, 2009. Registrants will be provided with instructions for participation via e-mail. We will give preference to registrants based on date and time of registration.

Dated: May 11, 2009.

David J. Stout,

Designated Federal Officer, Wind Turbine Guidelines Advisory Committee.

[FR Doc. E9–11490 Filed 5–15–09; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–407 and 731–TA–902, 904, 905 (Review) (Remand)]

Hot-Rolled Steel Products From Kazakhstan, Romania, and South Africa

AGENCY: United States International Trade Commission.

ACTION: Revised scheduled for the referenced remand proceedings.

SUMMARY: The U.S. International Trade Commission (''Commission'') has modified the schedule for the referenced remand proceedings. For further information concerning the conduct of this proceeding and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207).

DATES: *Effective Date:* May 12, 2009.

FOR FURTHER INFORMATION CONTACT: Mary Messer, Office of Investigations, telephone 202–205–3193, or Marc A. Bernstein, Office of General Counsel, telephone 202–205–3087, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record of the underlying reviews (Investigation Nos. 701–TA–404–408 and 731–TA–898–902 and 904–908 (Review)) may be viewed on the Commission's electronic docket (''EDIS'') at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On May 4, 2009, the Commission issued a **Federal Register** notice instituting the referenced remand proceedings and specifying certain written submissions that may be filed in the proceedings. 74 FR 21821 (May 11, 2009). Specifically, the Commission set a deadline of May 14, 2009 for submission of certain types of additional information regarding the operations of ArcelorMittal, its affiliates including Mittal USA, and its predecessor companies including Ispat and Ispat Inland. The Commission additionally established a deadline for May 29, 2009, for submission of written comments.

On May 11, 2009, counsel for Mittal USA filed a request for an extension of time to submit additional information regarding the operations of ArcelorMittal. The Commission has found good cause to extend this deadline from May 14, 2009 to May 18, 2009. Because the Commission has extended the deadline for submission of new information into the record, the Commission is also extending the deadline for submission of written comments from May 29, 2009 to June 1, 2009. Except for the due dates, all restrictions concerning these submissions specified in the May 4, 2009 notice remain applicable.

Parties are also advised to consult with the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission.

By order of the Commission.

Issued: May 12, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–11460 Filed 5–15–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–09–015]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 22, 2009 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

Matters To Be Considered

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–463 and 731–TA–1159 (Preliminary) (Certain Oil Country Tubular Goods from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before May 26, 2009; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before June 2, 2009).
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: May 14, 2009.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E9–11678 Filed 5–14–09; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modifications of the Consent Decree Entered in United States et al. v. Illinois Power Company and Dynegy Midwest Generation

Notice is hereby given that on April 27, 2009, the United States lodged Proposed Consent Decree Modifications in the United States District Court for the Southern District of Illinois in the matter captioned *United States et al.* v. *Illinois Power Company and Dynegy Midwest Generation, Inc.* (Civil Action No. 99–833–MJR). These proposed modifications were jointly agreed to by the United States, the State of Illinois, the four citizen groups co-plaintiffs—the American Bottom Conservancy, Health and Environmental Justice-St. Louis, Inc., Illinois Stewardship Alliance, and

the Prairie Rivers Network—and Dynegy Midwest Generation (''DMG'').

The proposed modifications affect Section I of Appendix A, Mitigation project Requirements, under which DMG is required to complete installation of Advanced Truck Stop Electrification (''ATSE''), preferably at State of Illinois-owned rest areas along Illinois interstate highways in the St. Louis Metro-East area. In accordance with this requirement, in 2006, DMG arranged for the development of 81 electrification units at one facility in East St. Louis, spending approximately $959,293 of the $1.5 million required project dollars. Thereafter, DMG encountered difficulties implementing a second ATSE project site and, in December, 2007, the Court extended the deadline for completion of the ATSE project for one year (*i.e.,* until December 31, 2008) in recognition of the difficulties in securing a second truck stop location. By July, 2008, the Parties concluded that, despite diligent efforts, DMG was unable to complete the ATSE project, and thereafter agreed to seek modification of the Consent Decree to provide for an alternative environmental mitigation project to spend the balance of the project dollars. To this end, the Parties have agreed to two related modifications to the Consent Decree. First, the Parties have agreed that DMG may have until May 31, 2011 to complete an approved mitigation project with the remaining $540,707. Second, the Parties have agreed to require DMG to spend these funds to retrofit diesel-powered, in-service, school bus and municipal vehicles with technology to reduce emissions of PM, VOC and/or NO_X. This work will be facilitated by Illinois EPA, through that agency's ''Illinois Clean School Bus Program'' or the ''Illinois Clean Diesel Grant Program,'' and will be aimed at eligible fleets in southwestern Illinois. DMG's Baldwin Power Station is located in Randolph County, and the intent of the Parties is to retrofit fleets to reduce emissions as near to the plant as possible.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the above-described Proposed Consent Decree Modification. 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. *Illinois Power Company and Dynegy Midwest Generation, Inc.,* D.J. Ref. No. 90–5–2–1–06837. During the public comment period, the proposed modification to 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 proposed modification 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 $4.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–11458 Filed 5–15–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Stipulation of Settlement and Judgment Under the Clean Water Act

Notice is hereby given that on May 12, 2009, a proposed Stipulation of Settlement and Judgment, pertaining to *United States* v. *Alaska Gold Co. and NovaGold Resources, Inc.*, 3:09–cv–00090–TMB, was lodged with the United States District Court for the District of Alaska.

In the action, the United States seeks civil penalties for alleged violations of Sections 301 of the Clean Water Act, 33 U.S.C. 1311, in connection with violations of permit conditions or limitations in a National Pollutant Discharge Elimination System (''NPDES'') permit, issued by the Environmental Protection Agency (''EPA''), during the construction and/or operation of the Rock Creek Mine in/or near Nome, Alaska. The proposed Stipulation of Settlement and Judgment requires that within thirty (30) days of entry of the Stipulation of Settlement and Judgment, Alaska Gold Co. and NovaGold Resources, Inc. shall pay $883,628 in civil penalties to the United States to resolve the violations alleged in the complaint.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Stipulation of Settlement and Judgment. 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. *Alaska Gold Co. and NovaGold Resources, Inc*, DOJ No. 90–5–1–1–09621. The proposed Stipulation of Settlement and Judgment may be examined at the Office of the United States Attorney for the District of Alaska, Federal Bldg., U.S. Courthouse, 222 W. 7th Ave. Room 9 (contact Assistant U.S. Attorney, Gary Guarino (907) 271–4264), and at EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 (contact Senior Enforcement Counsel Mark Ryan (208) 378–5768). During the public comment period, the Stipulation of Settlement and Judgment may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Stipulation of Settlement and Judgment 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 $2.25 (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.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–11457 Filed 5–15–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Women Offenders: Gender Responsive Approaches to Risk and Need Assessment

AGENCY: National Institute of Corrections, Department of Justice

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The National Institute of Corrections is seeking through a cooperative agreement award to fund further support, development and dissemination of the Women's Risk and Need Assessment Instruments. The

Women's Risk and Need Assessment Instruments were developed via a cooperative agreement with a national university and include gender responsive assessments for use in institutional settings and community settings (probation, parole).

Funds are available for tasks involved in ongoing support of jurisdictions seeking to implement the Women's Risk and Need Assessment Instruments. Included in this work will be: (a) Further dissemination of materials and assessments to interested users; (b) technical assistance to jurisdictions planning to implement the gender-responsive tools; (c) assisting agency efforts to utilize the assessments; and (d) conducting research to further validate and refine the assessment instruments.

DATES: Applications must be received by 4 p.m. EST on Wednesday, June 24, 2009.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or a similar service to ensure delivery by the due date, as mail at NIC is sometimes delayed due to security screening.

Applicants who wish to hand-deliver their applications should bring them to 500 First Street, NW., Washington, DC 20534, and dial 202–307–3106, ext. 0, at the front desk for pickup.

Faxed or e-mailed applications will not be accepted.

FOR FURTHER INFORMATION CONTACT: A copy of this announcement and the required application forms can be downloaded from the NIC web page at *http://www.nicic.gov/cooperativeagreements.*

All technical questions concerning this announcement should be directed to Pam Davison at 202–353–0484 or at *pdavison@bop.gov*

SUPPLEMENTARY INFORMATION:

Background: Over the past two decades NIC has had a deliberate focus on women offenders. With the recent emergence of evidence-based practices in criminal justice, NIC has taken the opportunity to combine two bodies of work (gender responsive research and knowledge focusing on women and evidence based practices) into products designed to improve outcomes for criminal justice involved women.

Over the years, jurisdictions managing women offenders were becoming increasingly concerned about the rapid growth of female offender populations, exceeding the rate of growth in male offender populations and adverse consequences in the application of gender-neutral instruments to assess and classify women. Surveys of state correctional classification directors revealed that only 14 systems had instruments that were validated with populations of women. Instruments not validated for women were creating over classification, often with women being held in more austere conditions than warranted by their risk.

In 2002 NIC held a 'gender-responsive assessment meeting' attended by prominent researchers in correctional and women offender research, Federal agency representatives with responsibilities for correctional research, and practitioners who required accurate assessments of women to manage programs and institutions effectively. Key findings from the event were numerous and concerns were raised that traditional emphasis on risk was largely misplaced with women, there may be other factors with improved predictability for women, and assessing treatment and programming needs, separate from risk but likely impacting risk, should be further explored. Recommendations from the event included continuing to advance the theoretical underpinning of gender-specific assessment, further the body of research in this field by developing a research agenda and the development of ethical and scientific standards for this research; establishing quality control/monitoring mechanisms; exploring issues related to women's behavior in general and women's criminal behavior in particular; funding demonstration projects that emphasize research design and replicability; and provide technical assistance for the implementation of improved assessment practices and for testing models and processes.

The recommendations were acted upon. A collaborative effort between several state and local correctional agencies, NIC and a national university was formed and the construction and validation of two gender-responsive risk and needs assessments for women offenders were created. The instruments are a result of a multi-year collaboration covering design research and data collection procedures; project implementation and support; data collection; scale construction at designated sites; IRB approvals; training site staff in data collection and research protocols; travel to sites and preparation of research articles and presentations.

The empirical foundation of the two instruments was drawn from two offender rehabilitation perspectives: (1) Canadian researchers (Paul Gendreau, Donald Andrews, James Bonta and others) emphasizing the importance of assessing and treating dynamic risk factors and (2) feminist criminologists stressing the ''pathways'' to crime research (Kathleen Daley, Joanne Belknap, Barbara Bloom, Stephanie Covington, Barbara Owen, Meda Chesney-Lind and others). Both bodies of research are fundamental to assessing and programming for dynamic risk factors specific to women. However, the ''pathways'' model asserts that women's unique needs are not adequately tapped by the current risk/need instruments. The two new women's assessments identify needs such as trauma and abuse; unhealthy relationships; parental stress; depression; and self efficacy.

These two assessments are (1) A Gender Responsive Risk/Needs Interview—this is a stand-alone risk needs instrument identifying needs noted to be predictive of offense-related outcomes for women, and (2) The ''Trailer''—this assessment serves as an addendum to established gender neutral assessment (e.g. Northpointe Compas, LSI–R, etc.), allowing systems using those instruments to access areas that guide programming explicitly for women. For further information on these two instruments, refer to *http://www.uc.edu/womenoffenders.*

The interest in the instruments has been strong. A number of jurisdictions are in the implementation and validation process while additional jurisdictions are contemplating the implementation and validation of one of the two instruments. Data continues to be collected and gender responsive measures of specific risk and need factors continue to be refined. In order to meet the needs of the field and maintain quality control with the instruments, a number of strategies, noted in this request for application, will be employed.

Scope of Work/Products: It is expected that the Women Offenders: Gender-Responsive Approaches to Risk/Needs Assessment award will include:

(1) Dissemination of products to include fielding inquiries from interested parties; making assessments available for review; conducting on-line events (training, presentations) regarding use of assessments; presenting at professional conferences; preparing publications for refereed journals and newsletters; maintaining the assessment instrument registration process for purposes of quality control and fidelity; and maintaining a web page with detailed explanation of the assessments, listing all relevant publications and training opportunities.

The dynamic Web site will also contain information on psychometric properties and notification of any changes to assessment tools.

(2) Provision of Technical Assistance in conjunction with NIC to requesting jurisdictions contemplating the use of the assessments. Services would include (a) evaluating a site's existing classification systems; (b) tailoring new assessments to system-specific needs; and (c) recommending implementation plans.

(3) Developing agency capacity to administer the assessments and use them for case planning purposes—refine training materials to incorporate emerging information; provide ongoing support to agencies during the implementation process, and address the technical questions of those using the tools; train staff to administer the assessment; development of a curriculum to build capacity for training assessors; and conducting the training sessions.

(4) Further validation of the assessment—designing and conducting ongoing validation studies of the assessment instruments; incorporate changes that result from ongoing field tests and research findings and further developing assessment manuals and scoring guides.

Deliverables: At the end of the 18 month period, tangible products should include, at a minimum, reports and materials used for each technical assistance event, documentation of site inquiries and support provided, detailed web page, finalized assessment manual and scoring guide.

Budget and Strategy Narratives: The applicant's submission narrative should include suggested protocols and estimated costs for technical assistance, assisting agencies in implementation and support process.

Document Preparation: For all awards in which a document will be a deliverable, the awardee must follow the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the ''General Guidelines for Cooperative Agreements'' which will be included in the award package.

Application Requirements: An application package must include OMB Standard Form 425, Application for Federal Assistance; a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (e.g., July 1 through June 30); and an outline of projected costs with the budget and strategy narratives described in this announcement. The following additional forms must also be included: OMB Standard Form 424A, Budget Information—Non-construction Programs; OMB Standard Form 424B, Assurances—Non-construction Programs (both available at *http://www.grants.gov*); DOJ/FBOP/NIC Certification Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements (available at *http://www.nicic.org/Downloads/PDF/certif-frm.pdf*).

Applications should be concisely written, typed double-spaced and reference the NIC Opportunity Number and Title provided in this announcement.

If you are hand delivering or submitting via Fed Ex, please include an original and three copies of your full proposal (program and budget narrative, application forms, assurances and other descriptions). The original should have the applicant's signature in blue ink. Electronic submissions will only be accepted via *http://www.grants.gov.*

The narrative portion of the application should include, at a minimum: Brief paragraph indicating the applicant's understanding of the project's purpose; brief paragraph that summarizes the project goals and objectives; clear description of the methodology that will be used to complete the project and achieve its goals; statement or chart of measurable project milestones and time lines for the completion of each milestone; description of the qualifications of the applicant organization and a resume for the principal and each staff member assigned to the project that documents relevant knowledge, skills and ability to carry out the project; budget that details all costs for the project, and noting a commitment to work within the proposed budget.

The total narrative portion of the application should not exceed ten double-spaced type written pages, excluding attachments related to credentials and relevant experience of staff.

Authority: Public Law 93–415.

Funds Available: NIC is seeking the applicant's best ideas regarding accomplishments of the scope of the work and the related costs for achieving the goals and objectives of this solicitation. Funds may only be used for the activities that are linked to the desired outcome of the project.

Eligibility of Applicants: An eligible applicant is any state or general unit of local government, private agency, educational institution, organization, individual or team with expertise in the described areas. Applicants must have demonstrated the ability to implement a project of this size and scope.

Review Considerations: Applications received under this announcement will be subjected to a 3–5 person NIC Review Process. The criteria for the evaluation of each application will include:

Organizational/Staff Background

An application review panel will review the background, experience and expertise of the proposed project staff, including subcontractors. Does staff have previous demonstrated experience and knowledge in the theory, research and practical application of gender-responsive strategies for criminal justice involved women? Does the staff have a clear understanding of evidence based practices, the evolution of offender assessment instruments for risk management, as well as treatment planning? Can staff speak to the utility of blending the two bodies of work to improve outcomes for women offenders? Is the number of staff involved realistic and appropriate for the scope of the work, and does the applicant have the capacity to deliver all aspects of the project on time? Is there a reason that each member of the proposed team has been included?

Project Design/Content

Does the applicant clearly understand the goals of this project? Is the practical application of research-based principles and gender-responsive strategies specific to women evident in the project design? Are project tasks, time lines, benchmarks and expected objectives evident? How sound are the technical strategies proposed? Have the strategies been demonstrated to be effective in other projects? Are the final work products identified, and do the proposed strategies lead to their completion within the time frame? Are there innovative approaches, techniques, or design aspects proposed that will enhance the project? How will the applicant measure its own performance and the performance of adjunct team members? Is the applicant willing to work with NIC staff as necessary?

Budget

Does the budget narrative clearly tie to the numbers, and can the products be delivered on the desired time line, within the proposed budget? Are the final work products clearly defined and identified on the work plan? Is a Gantt chart provided that aligns budget with objectives along a time line that shows, at a minimum, quarterly benchmarks?

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Data Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

Applicants can receive a DUNS number at no cost by calling the

dedicated toll-free DUNS number request line at 800–333–0505 (if you are sole proprietor, dial 866–705–5711 and select option 1).

Applicants may register online with CCR at the Web site: *http://www.ccr.gov.* A CCR handbook and worksheet can also be reviewed at the Web site.

Number of Awards: One.

Applicant's Conference: An applicant's telephone conference will be held June 3, 2009 between 12 noon EST and 1 pm EST. Applicants who are interested in participating in this applicant's conference call should indicate their expectation to participate by e-mailing Pam Davison at *pdavison@bop.gov* no later than 12 noon on June 1, 2009. This telephone conference will give applicants the opportunity to ask questions about the project and the application procedures. Participation in the telephone conference is optional.

Note that interested applicants need to provide complete contact information, including e-mail address and phone number, to Pam Davison when they indicate their expectation to participate.

NIC Opportunity Number: 09M12. This number should appear as a reference line in the cover letter, where the opportunity number is requested on the Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.602

Executive Order 12372. This project is not subject to the provisions of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. E9–11530 Filed 5–15–09; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Office of the Secretary; Submission for OMB Review: Comment Request

May 11, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—ESA, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Revision of a currently approved collection.

Title of Collection: Application for a Farm Labor Contractor or Farm Labor Contractor Employee Certificate of Registration.

OMB Control Number: 1215–0037.

Agency Form Number: WH–530.

Affected Public: Private Sector—Businesses or other for-profits and Farms.

Total Estimated Number of Respondents: 10,611.

Total Estimated Annual Burden Hours: 5,306.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $4,536.

Description: The Migrant and Seasonal Agricultural Worker Protection Act provides that no individual may perform farm labor contracting activities without a certificate of registration. The Form WH–530 is the application form that provides the Department of Labor with the information necessary to issue certificates specifying the farm labor contracting activities authorized. For additional information, see related notice published at Volume 74 Fed. Reg. 4236 on January 23, 2009.

Agency: Employment Standards Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Notice of Termination, Suspension, Reduction, or Increase in Benefit Payments.

OMB Control Number: 1215–0064.

Agency Form Number: CM–908.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 325.

Total Estimated Annual Burden Hours: 1,400.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $6,300.

Description: Coal mine operators who pay monthly benefits must notify the Department's Division of Coal Mine Workers' Compensation (DCMWC) of any change in payments and the reason for that change. DCMWC uses this notification to monitor payments and ensure that beneficiaries receive the correct benefit rate. For additional information, see related notice published at Volume 74 Fed. Reg 7620 on February 18, 2009.

Agency: Employment Standards Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Request for Earnings Information.

OMB Control Number: 1215–0112.

Agency Form Number: LS–426.

Affected Public: Individuals or households.

Total Estimated Number of Respondents: 1,600.

Total Estimated Annual Burden Hours: 400.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $720.

Description: The Form LS–426 gathers information regarding an employee's average weekly wage. This information is needed for determination of compensation benefits in accordance with section 10 of the Longshore and Harbor Workers' Compensation Act. For additional information, see related notice published at Volume 73 Fed. Reg 79194 on December 24, 2008.

Agency: Employment Standards Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Migrant and Seasonal Agricultural Worker Protection Act Wage Statement.

OMB Control Number: 1215–0148.

Agency Form Numbers: WH–501/WH–501S.

Affected Public: Private Sector—Businesses or other for-profits and Farms.

Total Estimated Number of Respondents: 51,542.

Total Estimated Annual Burden Hours: 715,417.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $2,146,250.

Description: The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) requires each farm labor contractor, agricultural employer and agricultural association that employs any migrant or seasonal worker to make, keep, and preserve certain wage records for three years for each such worker and to provide an itemized written statement of this information to each migrant and seasonal agricultural worker each pay period. In addition, the MSPA requires that each farm labor contractor provide copies of all the records noted above for the migrant or seasonal agricultural workers the contractor has furnished to other farm labor contractors, agricultural employers or agricultural associations who use the workers. Except for the worker, the recipient of such records is to retain them for a period of three years. For additional information, see related notice published at Volume 74 Fed. Reg 6660 on February 10, 2009.

Agency: Employment Standards Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act.

OMB Control Number: 1215–0160.

Agency Form Numbers: LS–200; LS–201; LS–203; LS–204; LS–262; LS–267; LS–271; LS–274; and LS–513.

Affected Public: Individuals or households.

Total Estimated Number of Respondents: 175,374.

Total Estimated Annual Burden Hours: 66,544.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $66,587.

Description: The regulations and forms cover the submission of information relating to the processing of claims for benefits under the Longshore Act and extensions. For additional information, see related notice published at Volume 74 Fed. Reg 7619 on February 18, 2009.

Agency: Employment Standards Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Rehabilitation Maintenance Certificate.

OMB Control Number: 1215–0161.

Agency Form Number: OWCP–17.

Affected Public: Individuals or households.

Total Estimated Number of Respondents: 1,300.

Total Estimated Annual Burden Hours: 2,605.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $0.

Description: The OWCP–17 serves as a bill submitted by the program participant or OWCP, requesting reimbursement of expenses incurred due to participation in an approved rehabilitation effort for the preceding four-week period of fraction thereof. For additional information, see related notice published at Volume 74 Fed. Reg 6659 on February 10, 2009.

Agency: Employment Standards Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Statement of Recovery Forms.

OMB Control Number: 1215–0200.

Agency Form Numbers: CA–1108 and CA–1122.

Affected Public: Private Sector—Businesses or other for-profits and Individuals or households.

Total Estimated Number of Respondents: 3,000.

Total Estimated Annual Burden Hours: 1,425.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $1,350.

Description: These forms are used to obtain information about amounts received as the result of final judgments in litigation, or a settlement of the litigation, brought against a third party who is liable for damages due to a Federal employee comprehensive work-related injury. For additional information, see related notice published at Volume 73 FR 79194 on December 24, 2008.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–11469 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Office of the Secretary

Combating Exploitive Child Labor Through Education

AGENCY: Bureau of International Labor Affairs, Department of Labor.

ACTION: Correction. Amendment to Notice of Intent to Solicit Cooperative Agreement Applications.

SUMMARY: In the **Federal Register** of April 10, 2009 (Vol. 74, p. 16428), the Department of Labor published a Notice of Intent to Solicit Cooperative Agreement Applications. This is an amendment to the ''Key Dates'' and ''Bidders' Meeting'' sections of the earlier **Federal Register** notice.

Amendments

A. On page 16429, Key Dates, column 1, delete the sentence: ''The SGA(s) will remain open for at least 60 days from the date of publication.'' Replace with the following sentence: ''USDOL intends to leave the SGA open for 45–60 days from the date of publication.''

B. On page 16429, For Further Information Contact, Bidders' Meeting, column 1, delete the sentence: ''USDOL intends to hold a bidders' meeting on May 28, 2009 in Washington, DC at the Department of Labor from 1:30 p.m. to 3:30 p.m.'' Replace with the following sentence: ''USDOL intends to hold a bidders' meeting on June 24, 2009 in Washington, DC at the Department of Labor from 1:30 p.m. to 3:30 p.m.''

C. On page 16429, For Further Information Contact, Bidders' Meeting, column 1, delete the sentence: ''To register for the meeting, please call or email Ms. Doris Senko (Phone: 202–693–4843; E-mail: *senko.doris@dol.gov*) by May 21, 2009.'' Replace with the following sentence: ''To register for the meeting, please call or email Ms. Doris Senko (Phone: 202–693–4843; E-mail: *senko.doris@dol.gov*) by June 17, 2009.''

Agency Contacts: Ms. Lisa Harvey. E-mail address: *harvey.lisa@dol.gov.* All inquiries should make reference to the USDOL Combating Child Labor through Education—Solicitations for Cooperative Agreement Applications. Potential applicants should not submit inquiries to USDOL for further information on the award opportunities outlined in the April 10, 2009 Notice of Intent until after USDOL has published the solicitation(s) for cooperative agreement applications, which will occur prior to September 30, 2009.

Signed at Washington, DC, this 12th day of May, 2009.

Lisa Harvey,

Grant Officer.

[FR Doc. E9–11470 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0009]

Lead in General Industry Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its proposal to extend OMB approval of the information collection requirements contained in the Lead in General Industry Standard (29 CFR 1910.1025).

DATES: Comments must be submitted (postmarked, sent, or received) by July 17, 2009.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0009, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA–2009–0009). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Jamaa Hill at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Jamaa N. Hill or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The information collection requirements in the Lead in General Industry Standard are designed to reduce occupational lead exposure in general industry. Lead exposure can result in both acute and chronic effects and can be fatal in severe cases of lead toxicity. The standard specifies the following requirements that impose paperwork burdens on employers: Establishing a compliance program and notifying laundry personnel of lead hazards; instituting programs for exposure monitoring and medical surveillance (including medical examinations); notifying employees of exposure levels, biological monitoring results, the option for multiple physician review; and the restricted availability of chelation; providing information to physicians; obtaining written medical opinions; implementing employee information and training programs; recording medical removals; maintaining and transferring records of exposure monitoring and medical surveillance results, medical removals, and objective data used for the initial exposure monitoring exemption; and making records available to specified parties.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting OMB to extend their approval of the information collection requirements contained in the Lead in General Industry Standard. The Agency proposes to decrease burden hours from 1,242,562 hours to 1,225,255 hours, a total decrease of 17,307 hours. The decrease is primarily due to the reduction in the number of facilities (from 62,357 to 61,405) and exposed employees (from 887,113 to 871,974). There is also a cost reduction as a result of reducing the number of facilities and exposed employees as stated above. Although there is a reduction in the number of facilities and exposed employees, the cost estimate to perform medical surveillance has increased from $61.50 to $65.37 and medical examinations have increased from $210 to $223, resulting in a total cost increase of $2,578,340.

Type of Review: Extension of currently approved information collection requirements.

Title: Lead in General Industry Standard (29 CFR 1910.1025).

OMB Number: 1218–0092.

Affected Public: Business or other for-profits; Federal government; State, local and tribal governments.

Number of Respondents: 61,405.

Frequency: On occasion.

Total Responses: 4,219,272.

Average Time per Response: Ranges from 1 minute to notify employees of their right to seek a second medical opinion to 2 hours for an employee to receive a medical examination.

Estimated Total Burden Hours: 1,225,255.

Estimated Cost (Operation and Maintenance): $143,566,299.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2009–0009). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, this 11th day of May 2009.

Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–11426 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0008]

The Lead in Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its proposal to extend OMB approval of the information collection requirements contained in the Lead in Construction Standard (29 CFR 1926.62).

DATES: Comments must be submitted (postmarked, sent, or received) by July 17, 2009.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0008, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., *e.t.*

Instructions: All submissions must include the Agency name and OSHA docket number for the ICR (OSHA–2009–0008). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.*, copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Jamaa Hill at the address below to obtain a copy of the Information Collection Request (ICR).

FOR FURTHER INFORMATION CONTACT: Jamaa N. Hill or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format,

reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

OSHA is requesting approval from the Office of Management and Budget (OMB) for certain information collection requirements contained in the Lead in Construction Standard (29 CFR 1926.62). The purpose of the Lead in Construction Standard and its information collection requirements is to reduce occupational lead exposure in the construction industry. Lead exposure can result in both acute and chronic effects and can be fatal in severe cases of lead toxicity. Some of the health affects associated with lead exposure include brain disorders which can lead to seizures, coma, and death; anemia; neurological problems; high blood pressure; kidney problems; reproductive problems; and decreased red blood cell production. The Standard requires that employers: Establish and maintain a training program; review the compliance program annually; provide exposure monitoring, and medical surveillance programs; and maintain exposure monitoring and medical surveillance records. The records are used by employees, physicians, employers and OSHA to determine the effectiveness of the employer's compliance efforts. The Standard seeks to reduce disease by requiring exposure monitoring to determine if lead exposures are too high, by requiring medical surveillance to determine if employee blood lead levels are too high, and by requiring treatment to reduce blood lead levels.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Lead in Construction Standard (29 CFR 1926.62). OSHA is proposing to decrease the burden hours by 196,906 hours, from 1,560,717 hours to 1,363,811 hours due to the Agency reducing the number of firms, workers and projects affected by the Standard. Additionally, there is a cost reduction of $5,321,847, from $68,576,673 to $63,254,826. The decrease is primarily the result of the Agency reducing the number of examinations and consultations covered under biological monitoring (medical surveillance) § 1926.62(j).

The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Lead in Construction Standard (29 CFR 1926.62).

OMB Number: 1218–0189.

Affected Public: Business or other for-profits; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 136,484.

Frequency of Response: On occasion.

Average Time per Response: Varies from 1 minute (.02 hour) for a clerical employee to notify employees of their right to seek a second medical opinion to 8 hours to develop a compliance plan.

Estimated Total Burden Hours: 1,363,811 hours.

Estimated Cost (Operation and Maintenance): $63,254,826.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2009–0008). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.*, copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, this 11th day of May 2009.

Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–11425 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,754]

Lane Funiture Industries, Inc., Including Workers whose UI Wages Were Paid by Action Transport, Belden, MS; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on August 20, 2008, applicable to workers of Lane Furniture Industries, Inc., Belden, Mississippi. The notice was published in the **Federal Register** on September 3, 2008 (73 FR 51529).

At the request of the company official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of upholstered furniture.

New information provided to the Department shows that some workers of the subject firm were former workers from Action Transport that were hired permanently by the subject firm. These workers had their wages reported under the Unemployment Insurance (UI) tax account for Action Transport.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Lane Furniture Industries, Inc. who were adversely affected by increased imports of upholstered furniture.

The amended notice applicable to TA–W–63,754 is hereby issued as follows:

''All workers of Lane Furniture Industries, Inc., including workers whose wages were paid by Action Transport, Belden, Mississippi, who became totally or partially separated from employment on or after July 28, 2007, through August 20, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC, this 1st day of May 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–11432 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2009.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2009.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 11th day of May 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX—TAA PETITIONS INSTITUTED BETWEEN 4/27/09 AND 5/1/09

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65850	Mamco (Wkrs)	Onconta, NY	04/27/09	04/23/09
65851	Precise Engineering (State)	Lowell, MI	04/27/09	04/20/09
65852	Dana Corporation (State)	Auburn Hills, MI	04/27/09	03/24/09
65853	Faurecia Exhaust Systems, Inc. (Comp)	Troy, OH	04/27/09	03/27/09
65854	Sypris Technologies (Comp)	Marion, OH	04/27/09	04/22/09
65855	Horizon Hobby, Inc. (Comp)	Ontario, CA	04/28/09	04/20/09
65856	N and E Components, Inc. (Comp)	High Point, NC	04/28/09	04/20/09
65857A	Steelcase University (Comp)	Grand Rapids, MI	04/28/09	04/21/09
65857B	Steelcase, Inc. (Comp)	Caledonia, MI	04/28/09	04/21/09
65857	Steelcase, Inc. (Comp)	Kentwood, MI	04/28/09	04/21/09
65858	Schnadig Corporation (Wkrs)	Des Plaines, IL	04/28/09	04/27/09
65859	T. Rad North America, Inc. (Wkrs)	Hopkinsville, KY	04/28/09	04/24/09
65860	Manitowoc Tool and Machine, LLC (54220)	Manitowoc, WI	04/28/09	04/27/09
65861	Wesley Hall Furniture, Inc. (Wkrs)	Hickory, NC	04/28/09	04/27/09
65862	BU Professional Lunimaries NA (IUECWA)	Burlington, MA	04/28/09	04/23/09
65863	Watry Industries, Inc. (State)	Sheboygan, WI	04/29/09	04/24/09
65864	Baker Furniture (Wkrs)	Hickory, NC	04/29/09	04/23/09
65865	Steel Tool and Die (Comp)	St. Marys, PA	04/29/09	04/28/09
65866	Maxon Furniture (Wkrs)	Salisbury, NC	04/29/09	04/23/09
65867	Vanguard Supreme (Comp)	Monroe, NC	04/29/09	04/28/09
65868	Nortel Networks (Wkrs)	Richardson, TX	04/29/09	04/20/09

APPENDIX—TAA PETITIONS INSTITUTED BETWEEN 4/27/09 AND 5/1/09—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65869	Chatsworth Products, Inc. (Wkrs)	New Bern, NC	04/29/09	04/22/09
65870	Samuel Aaron International (Wkrs)	Long Island City, NY	04/30/09	04/24/09
65871	Sherwood Valve, LLC (USWA)	Washington, PA	04/30/09	04/30/09
65872	Aaron's Automotive Products, Inc. (Wkrs)	Springfield, MO	04/30/09	04/29/09
65873	Tyco Electronics (Wkrs)	Greensboro, NC	05/01/09	04/17/09
65874	Fielder Electric Motor Repair, Inc. (Comp)	Galax, VA	05/01/09	04/30/09
65875	Eastern Display (Comp)	Providence, RI	05/01/09	04/30/09

[FR Doc. E9–11429 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *April 27 through May 1, 2009.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A), all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B), both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–65,461; Woodgrain Millworks, Inc., Leased Workers Mid Oregon Personnel Services, Prineville, OR: March 2, 2008

TA–W–65,506; Mel Bernie and Company, dba 1928 Jewelry Company, Burbank, CA: January 29, 2008

TA–W–65,095; Commercial Carving Company, Thomasville, NC: February 2, 2008

TA–W–65,151; Starlume, Inc., d/b/a Illume, Adecco and Aerotek, Sun Valley, CA: February 4, 2008

TA–W–65,449; Kamin, LLC, Formerly J.M. Huber Corporation, Leased Workers From Precision Staffing, Sandersville, GA: February 26, 2008

TA–W–65,654; Lear Corporation, Southfield, MI: February 24, 2008

TA–W–65,659; Eagle Sewing Company, San Francisco, CA: March 13, 2008

TA–W–65,697; Robin-Lynn Mills, Inc., Fort Payne, AL: March 25, 2008

TA–W–65,762; Chrysler LLC, Sterling Heights Assembly, Sterling Heights, MI: March 8, 2008

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–64,826; Thomasville Furniture Industries, Inc., Thomasville, NC: January 6, 2008

TA–W–64,827; Thomasville Furniture Industries, Ind.—Plant E, Thomasville, NC: January 6, 2008

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–65,521; KB Alloys LLC—Wenatchee Plant, Malaga, WA: March 6, 2008

TA–W–65,638; Greenfield Research, Inc., Die Cut Department, Greenfield, OH: March 28, 2009

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. The firm does not have a significant number of workers 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–64,725; Weather Shield Manufacturing, Inc., Corporate Office, Medford, WI.

TA–W–64,855; Federal-Mogul Corporation, Powertrain Sealing Bearings Div., Frankfort, IN.

TA–W–65,139; Weather Shield Manufacturing, Inc., Custom Products Division, Medford, WI.

TA–W–65,140; Fred Whitaker Company, Roanoke, VA.

TA–W–65,276; The Mitchell Gold Company, Leased Workers From Brigette's Staffing, Taylorsville, NC.

TA–W–65,294; Iowa Precision Industries, Mestek, Inc., Cedar Rapids, IA.

TA–W–65,524; Volvo Truck North America, New River Valley Plant, Dublin, VA.

TA–W–65,556; Samsung Austin Semiconductor, FAB 1 Division, Austin, TX.

TA–W–65,568; Metal Powder Products, Ford Road Division, St. Marys, PA.

TA–W–65,746A; Plum Creek Northwest Plywood, Inc., A Subsidiary of Plum Creek Timber Company, Columbia Falls, MT.

TA–W–65,746; Plum Creek Northwest Plywood, Inc., A Subsidiary of Plum Creek Timber Company, Kalispell, MT.

TA–W–65,283; Product Action International, LLC, Working On-Site at Toyota Manufacturing Indiana, Princeton, IN.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–65,673; APAC Customer Services, Inc., Cedar Rapids, IA.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of *April 27 through May 1, 2009.* Copies of these determinations are available for inspection in Room N–5428, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 8, 2009.

Certifying Officer, Division Of Trade Adjustment Assistance.

[FR Doc. E9–11430 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–63,943]

Dana Holding Corporation, Sealing Products Group, Including On-Site Temporary Agency Workers from Pomeroy, Paris, TN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on November 3, 2008, applicable to workers of Dana Holding Corporation, Sealing Products Group, Paris, Tennessee. The notice was published in the **Federal Register** on November 25, 2008 (73 FR 71696).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce composite covers and rubber gaskets for the automotive industry.

The intent of the Department's certification is to include all workers of the subject firm adversely affected by the shift in production of rubber gaskets to Mexico.

New information shows that temporary agency workers from Pomeroy were employed on-site at the Paris, Tennessee, location of Dana Holding Corporation, Sealing Products Group. The Department has determined that these workers were sufficiently under the control of the subject firm.

Based on these findings, the Department is amending this certification to include temporary agency employees of Pomeroy working on-site at the subject firm.

The amended notice applicable to TA–W–63,943 is hereby issued as follows:

''All workers of Dana Holding Corporation, Sealing Products Group, Paris, Tennessee, including on-site temporary agency workers from Pomeroy, who became totally or partially separated from employment on or after August 27, 2007 through November 3, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed in Washington, DC, this 5th day of May 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–11433 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–62,655]

Warp Processing Company, Inc. Exeter, PA; Notice of Revised Determination on Remand

On February 20, 2009, the U.S. Court of International Trade (USCIT) remanded to the U.S. Department of Labor (Department) for further review *Former Employees of Warp Processing Company, Inc.* v. *United States,* Court No. 08–00179.

The investigation was initiated on January 10, 2008, by three petitioning workers for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) on behalf of workers and former workers of Warp Processing Company, Inc., Exeter, Pennsylvania (subject firm). The petition stated that the subject firm produced warped synthetic fibers, the subject firm's customers increased imports from a foreign country, and the subject firm supplied component parts for articles produced by firms with currently TAA-certified worker groups. AR 3–5, 7.

The petition also states that the subject firm furloughed forty-seven workers, AR 4,6, and that the imported article are not beamed fibers but ''fabric and other finished product.'' AR 7.

The petition further states that ''At Warp Processing we supply the component part for the finished products. We supply our customers with warped synthetic fibers and then they weave it into fabric and material and produce the finished product. Our company is an upstream supplier and/or a downstream producer to a certified primary firm and is *secondarily affected.*'' AR 7.

The negative determination applicable to the subject workers stated that the subject firm ''warped synthetic fibers'' and that ''Warping is a process by which yarn is placed onto beams for the textile industry.'' The determination also stated that the subject firm did not import warped synthetic fibers or shift production to a foreign country, the subject firm's major declining customers did not import like or directly competitive articles, and the subject workers did not qualify as adversely affected secondary workers. The negative determination was signed on February 19, 2008. AR 109–113. The Department's Notice of determination was published in the **Federal Register** on March 7, 2008 (73 FR 12466). AR 126.

In a submission dated March 14, 2008, the petitioners requested administrative reconsideration of the Department's negative determination, stated that the information received by the Department was erroneous and re-asserted that the workers qualify as adversely affected secondary workers. AR 136–139.

Stating that the requirement identified in 29 CFR 90.18 (Reconsideration of determination) was not met, the Department issued a Notice of Negative Determination Regarding Application for Reconsideration on March 18, 2008. AR 140–143. The Notice was published in the **Federal Register** on March 26, 2008 (73 FR 16066).

By letter dated May 16, 2008, Plaintiffs filed a complaint with the USCIT. The Plaintiffs asserted that the subject workers are eligible to apply for TAA as either adversely affected primary workers or adversely affected secondary workers. On February 20, 2009, the USCIT remanded the matter to the Department.

To apply for worker adjustment assistance under Section 222(a)(2)(A) of the Trade Act of 1974, as amended, petitioning workers must meet the following group eligibility requirements:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; *and*

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; *and*

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision.

The intent of the Department is for a certification to cover all workers of the subject firm or appropriate subdivision who were adversely affected by increased imports of the article produced by the firm or a shift in production of the article, based on the investigation of the TAA/ATAA petition.

For purposes of the Trade Act, a ''firm, together with any predecessor or successor-in-interest, or together with

any affiliated firm controlled or substantially beneficially owned by substantially the same persons, may be considered a single firm.'' 29 CFR 90.2 (definition of ''firm'')

During the remand investigation, the Department obtained additional information that establishes that although Brawer Bros, Inc. and the subject firm are separate entities, they are controlled by the same owners. Further, because the function performed by Warp Processing Company, Inc. supports the production of knit fabric at Brawer Bros, Inc., the subject workers are engaged in activity related to the production of knit fabric. Therefore, the Department determines that, in the case at hand, the subject firm is ''Warp Processing Company, Inc. and Brawer Bros, Inc.,'' Warp Processing Company, Inc. is an affiliate of the firm, and the article at issue is knit fabric.

A careful review of the administrative record reveals that a significant number or proportion of workers at Warp Processing Company, Inc. has been separated or threatened with separation. Therefore, the Department determines that the first criterion of Section 222(a)(2)(A) has been met.

A careful review of the administrative record reveals that sales and production at Warp Processing Company, Inc. have absolutely declined. Therefore, the Department determines that the second criterion of Section 222(a)(2)(A) has been met.

During the remand investigation, the Department conducted a survey of the subject firm's major declining customers. The survey revealed increased imports during the relevant period of articles like or directly competitive with those produced by the subject firm which contributed importantly to worker separations at Warp Processing Company, Inc. and to the subject firm's sales/production declines. Therefore, the Department determines that the third criterion of Section 222(a)(2)(A) has been met.

Based on the above information, the Department determines that the petitioning workers are eligible to apply for TAA and, therefore, it is moot whether or not the workers are eligible to apply for TAA as adversely affected secondary workers.

In accordance with Section 246 of the Trade Act of 1974 (26 USC 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA. The Department has determined in this case that the group eligibility requirements of Section 246 have been met.

A significant number of workers at Warp Processing Company, Inc. are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the knit fabric industry are adverse.

Conclusion

After careful review of the facts developed in the remand investigation, I determine that there was a separation of a significant number or proportion of workers at the subject firm or appropriate subdivision, that there were subject firm sales and production declines, and that increased imports of articles like or directly competitive with knit fabric produced by the subject firm contributed importantly to the subject firm's declines and the workers' separations.

In accordance with the provisions of the Act, I make the following certification:

''All workers of Warp Processing Company, Inc., Exeter, Pennsylvania, who became totally or partially separated from employment on or after January 9, 2007, through two years from this revised determination, are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC this 1st day of May 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–11431 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,647]

Trane US, Inc., Residential Systems Division, Tyler, TX; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated March 20, 2009, the International Union of Electronics, Electrical, Salaried Machine and Furniture Workers (IUE), AFL–CIO, Local 86782 requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) applicable to workers and former workers of the subject firm. The determination was issued on February 13, 2009. The Notice of Determination was published in the **Federal Register** on March 3, 2009 (74 FR 9279).

The initial investigation resulted in a negative determination based on the finding that imports of air conditioning units did not contribute importantly to worker separations at the subject firm. The investigation revealed that the subject firm did not shift production of air conditioning units to foreign countries during the period under investigation.

In the request for reconsideration, the petitioner alleged that the workers of the subject firm manufactured components for air conditioners and that the subject firm shifted production of these components to Mexico during the relevant period. The petitioner also alleged that the subject firm has shifted production to China and that there was an increase in imports of air conditioning units from China.

The Department has carefully reviewed the request for reconsideration and the existing record and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 1st day of May 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–11436 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,643; TA–W–64,643A; TA–W–64,643B]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

TA–W–64,643

Chrysler LLC, Headquarters, Including On-Site Leased Workers from Aerotek, Ajilon, Argos, Bartech Group, CDI Information Services, Computer Consultants of America, Inc., Computer Engrg Services, Epitec Group, Inc., GTECH Professional

Staffing, Inc., JDM Systems Consultants, Inc., Kelly Services, Inc., Preferred Solutions, Resource Technologies Corp, Spherion, Synova, and TAC Transportation, Auburn Hills, Michigan

TA–W–64,643A

Chrysler LLC, Technology Center, Including On-Site Leased Workers from Aerotek, Ajilon, Altair Engineering, Applied Technologies, Inc., Argos, ASG Renaissance, Automated Analysis Corp/Belcan, Bartech Group, CAE Tech, CDI Information Services, CER–CAD Engineering Resources, Computer Consultants of America Inc., Computer Engrg Services, Compuware, Controller Technologies, Data Communications Corporation, Emerging Technologies Corp., Engineering Technology Assoc., Gonzalez Design Engineering, GTECH Professional Staffing, Incat, Jefferson Wells International, Kelly Services, Inc., Magnasteyr, Meda Technical Services, Modern Professional Services, MSX International, Optimal, Qquest Corporation, Quantum Consultants, Rapid Global Business Solutions, Inc., Resource Technologies Corp, Ricardo, RSB Systems, Inc., Spherion, Synova, Inc., Syntel Int'l, Inc., Systems Technology Group, Inc., TAC Transportation, TEC, Technical Training, Inc., UGS PLM Solutions, Inc., Unique Systems Design, Inc., Valley Forge, and Wel-Tek International Corp., Auburn Hills, Michigan

TA–W–64,643B

Chrysler LLC, Featherstone, Including On-Site Leased Workers from Aerotek, Bartech Group, CDI Information Services, Computer Consultants of America, Inc., Computer Engrg Services, Crassociates, GTECH Professional Staffing, Inc., Incat, JDM Systems Consultants, Inc., Kelly Services, Inc., Meda Technical Services, Modern Professional Services, MSX International, O/E Learning, Resource Technologies Corp, Ricardo, Spherion, Synova, Inc., Systems Technology Group, Inc., TAC Transportation, TEC, and Technical Training, Inc., Auburn Hills, Michigan

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 19, 2008, applicable to workers of Chrysler LLC, Headquarters, Auburn Hills, Michigan, Chrysler LLC, Technology Center, Auburn Hills, Michigan and Chrysler LLC, Featherstone, Auburn Hills, Michigan. The notice was published in the **Federal Register** on January 14, 2009 (74 FR 2136).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of automotive vehicles and automotive vehicle parts.

New information shows that workers leased from the above mentioned firms were working on-site at the Chrysler LLC Headquarters, Technology Center and Featherstone facilities.

The Department has determined that these workers were sufficiently under the control of Chrysler LLC, Headquarters, Technology Center and Featherstone to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from the above mentioned firms working on-site at Auburn Hills, Michigan of the subject firm.

The amended notice applicable to TA–W–64,494 is hereby issued as follows:

All workers of Chrysler LLC, Headquarters, Auburn Hills, Michigan, including on-site leased workers from Aerotek, Ajilon, Argos, Bartech Group, CDI Information Services, Computer Consultants Of America, Inc., Computer Engrg Services, Epitec Group, Inc., Gtech Professional Staffing, Inc., JDM Systems Consultants, Inc., Kelly Services, Inc., Preferred Solutions, Resource Technologies Corp, Spherion, Synova, Inc., and TAC Transportation (TA–W–64,643); all workers of Chrysler LLC, Technology Center, Auburn Hills, Michigan, including on-site leased workers from Aerotek, Ajilon, Altair Engineering, Applied Technologies, Inc., Argos, ASG Renaissance, Automated Analysis Corp/Belcan, Bartech Group, CAE Tech, CDI Information Services, CER–CAD Engineering Resources, Computer Consultants of America Inc., Computer Engrg Services, Compuware, Controller Technologies, Data Communications Corporation, Emerging Technologies Corp., Engineering Technology Assoc., Gonzalez Design Engineering, GTECH Professional Staffing, Incat, Jefferson Wells International, Kelly Services, Inc., Magnasteyr, Meda Technical Services, Modern Professional Services, MSX International, Optimal, Qquest Corporation, Quantum Consultants, Rapid Global Business Solutions, Inc., Resource Technologies Corp, Ricardo, RSB Systems, Inc., Spherion, Synova, Inc., Syntel Int'l, Inc., Systems Technology Group, Inc., TAC Transportation, TEC, Technical Training, Inc., USG PLM Solutions, Inc., Unique Systems Design, Inc., Valley Forge, and Wel-Tek International Corp. (TA–W–64,643A), and all workers of Chrysler LLC, Featherstone, Auburn Hills, Michigan, including on-site leased workers from Aerotek, Bartech Group, CDI Information Services, Computer Consultants of America, Inc., Computer Engrg Services, Crassociates, GTECH Professional Staffing, Inc., Incat, JDM Systems Consultants, Inc., Kelly Services, Inc., Meda Technical Services, Modern Professional Services, MSX International, O/E Learning, Resource Technologies Corp, Ricardo, Spherion, Synova, Inc., Systems Technology Group, Inc., TAC Transportation, TEC, and Technical Training, Inc., (TA–W–64,643B), who became totally or partially separated from employment on or after December 2, 2007 through December 19, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC this 24th day of April 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–11435 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,482]

APV North America, Inc. Including On-Site Leased Workers From Adecco USA; Lake Mills, WI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 19, 2008, applicable to workers of APV North America, Inc., Lake Mills, Wisconsin. The notice was published in the **Federal Register** on January 14, 2009 (74 FR 2136).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers manufacture homogenizers, pumps and valves for the sanitary industry.

The intent of the Department's certification is to include all workers of the subject firm adversely affected by the shift in production of homogenizers and valve components for the sanitary industry to Germany.

New information shows that workers leased from Adecco USA were employed on-site at the Lake Mills, Wisconsin, location of APV North America, Inc. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Adecco North America working on-site at the Lake Mills, Wisconsin, location of the subject firm.

The amended notice applicable to TA–W–64,482 is hereby issued as follows:

''All workers of APV North America, Inc., including on-site leased workers from Adecco USA, Lake Mills, Wisconsin, who became totally or partially separated from employment on or after November 18, 2007, through December 19, 2010, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.''

Signed at Washington, DC this 4th day of May 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–11434 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–64,947]

Philip Morris USA, Cabarrus Manufacturing Plant, a Subsidiary of Altria Group, Inc., Concord, NC; Notice of Negative Determination on Reconsideration

On March 16, 2009, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on March 31, 2009 (74 FR 14593).

The initial investigation resulted in a negative determination based on the finding that imports of cigarettes did not contribute importantly to worker separations at the subject firm and no shift of production to a foreign source occurred.

In the request for reconsideration, the petitioner alleged that the subject firm shifted production of cigarettes to Colombia, Dominican Republic, Ecuador, El Salvador, and Mexico.

The Department of Labor contacted a company official to verify this information. The company official stated that the subject firm did not shift production of cigarettes abroad during the relevant period. Furthermore, the company official clarified that the subject firm manufactured cigarettes for export to an unaffiliated customer until December 2008. The investigation also revealed that the subject firm ended their manufacturing agreement with this customer and that the customer might manufacture cigarettes for foreign markets in the countries as indicated by the petitioner above.

The fact that subject firm's customer might have shifted its production abroad is not relevant to this investigation. According to section (a)(2)(B) of the Trade Act, in order to be eligible for TAA on the basis of a shift in production abroad, the shift in production must be implemented by the subject firm or its subdivision.

Furthermore, the investigation revealed that neither the subject firm nor its customers increased imports of cigarettes during the relevant period.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Philip Morris USA, Cabarrus Manufacturing Plant, a subsidiary of Altria Group Inc., Concord, North Carolina.

Signed at Washington, DC, this 4th day of May 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9–11428 Filed 5–15–09; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10 a.m., Thursday, May 21, 2009.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Final Rule—Part 717, Subpart E, Sections 717.40–717.43, Appendix E of NCUA's Rules and Regulations, Fair Credit Reporting.

2. Advance Notice of Proposed Rulemaking—Part 717, Subpart E, Sections 717.40–717.43, Appendix E of NCUA's Rules and Regulations, Fair Credit Reporting.

3. Waiver of Fidelity Bond Coverage Increase, Section 713.5 of NCUA's Rules and Regulations.

4. Insurance Fund Report.

RECESS: 11 a.m.

TIME AND DATE: 11:15 a.m., Thursday, May 21, 2009.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Creditor Claim Appeal. Closed pursuant to Exemption (6).

2. Consideration of Supervisory Activities (4). Closed pursuant to some or all of the following: Exemptions (8) and (9)(A)(ii) and 9(B).

3. Personnel (3). Closed pursuant to some or all of the following: Exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. E9–11643 Filed 5–14–09; 4:15 pm]

BILLING CODE 7535–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Michael P. McDonald, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended,

including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* June 1, 2009.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities, at the April 8, 2009 deadline.

2. *Date:* June 2, 2009.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities, at the April 8, 2009 deadline.

3. *Date:* June 3, 2009.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities, at the April 8, 2009 deadline.

4. *Date:* June 4, 2009.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities, at the April 8, 2009 deadline.

5. *Date:* June 12, 2009.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities, at the April 8, 2009 deadline.

6. *Date:* June 15, 2009.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities, at the April 8, 2009 deadline.

7. *Date:* June 16, 2009.
Time: 9 a.m. to 5 p.m.
Room: 402.
Program: This meeting will review applications for Digital Humanities Start-Up Grants, submitted to the Office of Digital Humanities, at the April 8, 2009 deadline.

Michael P. McDonald,
Advisory Committee, Management Officer.
[FR Doc. E9–11493 Filed 5–15–09; 8:45 am]
BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: National Science Foundation.
ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance for this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than three years.

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 on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information of respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be received by July 17, 2009, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 295, Arlington, VA 22230, or by e-mail to *splimpton@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send e-mail to *splimpton@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: *Title of Collection:* Implementation Evaluation of the ADVANCE Program.
OMB Control No.: 3145–NEW.
Expiration Date of Approval: Not applicable.

Abstract

The ADVANCE Program was established by the National Science Foundation in 2001 to address the underrepresentation and inadequate advancement of women on STEM (Science, Technology, Engineering, and Mathematics) faculties at postsecondary institutions. The evaluation being conducted by the Urban Institute focuses on the implementation of ADVANCE projects at institutions throughout the nation. The three major funding components—institutional transformation, leadership, and partnership awards—as well as all cohorts funded that completed their funding cycles will be included. The study will rely on a thorough review of project documents, telephone interviews with all grantees, and detailed case studies at selected sites. The goal of the evaluation will be to identify models of implementation and, depending on outcomes by model, conduct case studies at selected institutions to understand how ADVANCE models operate and may be effective in differing settings.

Respondents: Faculty and staff at institutions of higher education awarded an ADVANCE grant from NSF.
Estimated Number of Annual Respondents: 200 (total).
Burden on the Public: 200 hours.

Dated: May 13, 2009.

Suzanne H. Plimpton,
Reports Clearance Officer, National Science Foundation.
[FR Doc. E9–11541 Filed 5–15–09; 8:45 am]
BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0122]

NUREG/CR–XXXX, Criteria for Development of Evacuation Time Estimate Studies, Draft Report for Comment

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcement of issuance for public comment, availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued for public comment a document entitled: NUREG/CR–XXXX, ''Criteria for Development of Evacuation Time Estimate Studies.'' The Evacuation Time Estimate (ETE) is a calculation of the time to evacuate the plume exposure pathway emergency planning zone (EPZ), an area with a radius of about 10 miles around a nuclear power plant (NPP). The ETE is primarily used to inform protective action decisions during NPP radiological emergencies and may be used to assist in the development of traffic management plans to support an evacuation. This document is an acceptable template for use by NPP licensees to meet NRC requirements for the development of ETE studies. It also provides guidance for the update and review of ETEs. The format and criteria provided in this document will support consistent application of ETE methodology and will facilitate consistent NRC review of ETE studies.

DATES: Comments must be filed no later than 75 days from the date of publication of this notice in the **Federal Register**. Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: NUREG/CR–XXXX, ''Criteria for Development of Evacuation Time Estimate Studies,'' is available for inspection and copying for a fee at the NRC Public Document Room, Public File Area O1–F21, 11555 Rockville Pike, Rockville, Maryland. Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS Accession number for this NUREG/CR is: ML090560622. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

Comments will be made available to the public in their entirety; personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission. You may submit comments by any one of the following methods: *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov;* search on Docket ID: NRC–2008–0122. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *carol.gallagher@nrc.gov. Mail comments to:* Michael T. Lesar, Chief, Rulemaking and Directives Branch, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and cite the publication date and page number of this **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Mr. Frank J. (Jeff) Laughlin, Division of Preparedness and Response, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–1113, or e-mail at *jeff.laughlin@nrc.gov.*

SUPPLEMENTARY INFORMATION: NUREG/CR–XXXX, ''Criteria for Development of Evacuation Time Estimate Studies,'' supersedes previous NRC guidance concerning the development of ETE studies. This document provides guidance for addressing new emergency planning (EP) requirements for nuclear power plants based on proposed changes to EP regulations in Title 10, ''Energy,'' Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' of the *Code of Federal Regulations* (10 CFR Part 50), specifically Section 50.47, ''Emergency Plans,'' and Appendix E, ''Emergency Planning and Preparedness for Production and Utilization Facilities'' (reference RIN 3150–AI10).

NRC is issuing guidance for the development of ETEs that requires licensees to analyze several scenarios including all directions and distances within the EPZ, across time of day, day of week, adverse and normal weather conditions and peak population special events. NRC is seeking comment from offsite response organizations as to the type of scenarios to be developed to adequately support offsite protective action decision-making and evacuation planning efforts.

Dated at Rockville, Maryland, this 6th day of May 2009.

For the Nuclear Regulatory Commission.

Christopher G. Miller,

Deputy Director for Emergency Preparedness, Division of Preparedness and Response, Office of Nuclear Security and Incident Response.

[FR Doc. E9–11037 Filed 5–15–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0122]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–1237.

FOR FURTHER INFORMATION CONTACT: Steven F. LaVie, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–1081 or e-mail to *Steven.LaVie@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft regulatory guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), titled, ''Guidance on Making Changes to Emergency Response Plans for Nuclear Power Reactors,'' is temporarily identified by its task number, DG–1237, which should be mentioned in all related correspondence. This is a new guide.

The NRC staff's objectives for Title 10, section 50.54(q), of the Code of Federal Regulations (10 CFR 50.54(q)) are to ensure that licensees (1) Follow and maintain the effectiveness of their approved emergency plans, (2) evaluate proposed changes to these plans for their impact on the effectiveness of the plans, and (3) obtain prior NRC approval for changes that would reduce the effectiveness of the plans. These actions are essential if these plans are to continue to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC is proposing changes to 10 CFR 50.54(q) based on lessons learned from operating experience and at the direction of the Commission. The purpose of this draft guide is to provide guidance on the implementation of proposed revision of 10 CFR 50.54(q) with respect to making changes to emergency response plans. The

proposed changes to 10 CFR 50.54(q) can be found at the Federal e-Rulemaking Portal (*http://www.regulations.gov*) by searching on Docket ID: NRC–2008–0122.

II. Further Information

The NRC staff is soliciting comments on DG–1237. Comments may be accompanied by relevant information or supporting data, and should mention DG–1237 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Personal information will not be removed from the comments. Comments may be submitted by any of the following methods:

1. *Mail to:* Rulemaking and Directives Branch, Mail Stop: TWB–05–B01M, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

2. *Fax to:* Rulemaking and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 492–3446.

Requests for technical information about DG–1237 may be directed to Steven F. LaVie at (301) 415–1081 or e-mail to *Steven.LaVie@nrc.gov*.

Comments would be most helpful if received by September 1, 2009. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG–1237 are available through the NRC's public Web site under Draft Regulatory Guides in the ''Regulatory Guides'' collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML090080534.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov*.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 7th day of May 2009.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E9–11390 Filed 5–15–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–08502–MLR; ASLBP No. 09–887–01–MLR–BD01]

Cogema Mining, Inc.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register,** 37 FR 28,710 (1972), and the Commission's regulations, *see* 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Cogema Mining, Inc. Irigaray and Christensen Ranch Facilities (License Renewal for Source Materials License SUA–1341)

This Board is being established in response to requests for hearing that were filed pursuant to a Notice of Request to Renew Source Materials License SUA–1341, COGEMA Mining, Inc., Irigaray and Christensen Ranch Facilities, Johnson and Campbell Counties, WY, and Opportunity to Request a Hearing dated February 9, 2009 (74 FR 6436). Requests for hearing dated April 10, 2009 were filed by: (1) The Powder River Basin Resource Council; and (2) the Oglala Delegation of the Great Sioux Nation Treaty Council (Oglala Delegation), which also seeks ''leave to make filings by e-mail due to problems with the NRC's EIE document system encountered by [petitioner's counsel] due to computer system and software incompatibilities'' (Pet. for Hearing at 125).[1]

The Board is comprised of the following administrative judges:

Alex S. Karlin, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

Paul B. Abramson, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

William M. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Unless otherwise authorized by the Board, all correspondence, documents, and other materials shall be filed in accordance with the NRC E–Filing Rule, which the NRC promulgated in August 2007 (72 FR 49,139).

Issued at Rockville, Maryland, this 12th day of May 2009.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. E9–11532 Filed 5–15–09; 8:45 am]

BILLING CODE 7590–01–P

[1] The Oglala Delegation's request to make filings by email was initially directed to the Commission. The Secretary of the Commission, in turn, referred the hearing request to the Chief Administrative Judge of the ASLBP for appropriate action. Absent instructions to the contrary, such broad referrals result in the entire hearing request, and all its issues, being referred to a Board for resolution. The Oglala Delegation's request to make filings by e-mail should therefore be resolved by the Board.

NUCLEAR REGULATORY COMMISSION

Office of Nuclear Security and Incident Response

[NRC–2008–0122]

Interim Staff Guidance: Emergency Planning for Nuclear Power Plants; Solicitation of Public Comment

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Announcement of issuance for public comment, availability.

SUMMARY: The Office of Nuclear Security and Incident Response (NSIR) is soliciting public comment on its proposed Interim Staff Guidance (ISG) NSIR/DPR–ISG–01, ''Emergency Planning for Nuclear Power Plants.'' This ISG would provide guidance for addressing new emergency planning (EP) requirements for nuclear power plants based on proposed changes to EP regulations in Title 10, ''Energy,'' Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' of the *Code of Federal Regulations* (10 CFR Part 50), specifically Section 50.47, ''Emergency Plans,'' and Appendix E, ''Emergency Planning and Preparedness for Production and Utilization Facilities'' (reference RIN 3150–AI10). The NRC staff will modify the ISG as necessary for consistency with the final EP rule as part of the overall comment resolution process for the ISG and EP rule changes. Additional guidance on topics not directly related to the EP final rule, such

as integrating offsite response methodologies with onsite EP programs, is also provided in the ISG. Once the EP final rule is published and NRC staff completes the ISG, the staff will issue it for use. The NRC staff will incorporate the updated guidance information in NSIR/DPR–ISG–01 into future revisions of NUREG–0654/FEMA–REP–1, ''Criteria for the Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants,'' and other EP guidance documents.

Some NRC EP regulatory requirements are being revised that warrant guidance outside the scope of the proposed ISG. The NRC staff plans to provide additional guidance for addressing proposed changes to Section 50.54(q) concerning emergency plan changes in the form of a new Regulatory Guide (RG), proposed changes to Appendix E to 10 CFR Part 50 regarding emergency action levels for hostile action events in a revision to RG 1.101, ''Emergency Planning for Nuclear Power Plants,'' and proposed changes to Section 50.47(b)(10) and Appendix E to 10 CFR Part 50 regarding updates to evacuation time estimates in the form of a new NUREG/CR document. The Federal Emergency Management Agency (FEMA) is addressing offsite EP guidance changes in support of the proposed EP rule and other offsite EP program issues in a new supplement to NUREG–0654/FEMA–REP–1, as well as other FEMA documents. These documents will be issued separately for public comment prior to publishing the EP final rule.

DATES: Comments must be filed no later than 75 days from the date of publication of this notice in the **Federal Register.** Comments received after this date will be considered, if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: NSIR/DPR–ISG–01, ''Emergency Planning for Nuclear Power Plants,'' is available for inspection and copying for a fee at the NRC Public Document Room, Public File Area O1–F21, 11555 Rockville Pike, Rockville, Maryland. Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS Accession number for this ISG is: ML083540070. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr.resource@nrc.gov.*

Comments will be made available to the public in their entirety; personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission. You may submit comments by any one of the following methods: *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov*; search on Docket ID: NRC–2008–0122. Direct questions about NRC dockets to Carol Gallagher by telephone at 301–492–3668 or e-mail at *carol.gallagher@nrc.gov. Mail comments to:* Michael T. Lesar, Chief, Rulemaking and Directives Branch, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Cite the publication date and page number of this **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Mr. Donald R. Tailleart, Division of Preparedness and Response, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–2966 or e-mail at *don.tailleart@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC posts its issued staff guidance on the NRC external web page at *http://www.nrc.gov/reading-rm/doc-collections/isg/.*

The NRC staff is issuing this notice to solicit public comments on the proposed NSIR/DPR–ISG–01. After the NRC staff considers any public comments, it will make a determination regarding the proposed NSIR/DPR–ISG–01.

Dated at Rockville, Maryland, this 5th day of May 2009.

For the Nuclear Regulatory Commission.

Melvyn N. Leach,

Director, Division of Preparedness and Response, Office of Nuclear Security and Incident Response.

[FR Doc. E9–11036 Filed 5–15–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on June 3–5, 2009, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, October 6, 2008, (73 FR 58268–58269).

Wednesday, June 3, 2009, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:45 a.m.: License Renewal Application and the Revised Final Safety Evaluation Report for the National Institute of Standards and Technology (NIST) Reactor (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and NIST regarding the License Renewal Application for the NIST Reactor, the associated NRC staff's revised final SER, and related matters.

10 a.m.–12 p.m.: Draft Final Regulatory Guides 1.21 and 4.1 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding Draft Final Regulatory Guide 1.21 (DG–1186), ''Measuring, Evaluating, and Reporting Radioactive Materials in Liquid and Gaseous Effluents and Solid Wastes,'' and Draft Final Regulatory Guide 4.1 (DG–4013), ''Radiological Environmental Monitoring for Nuclear Power Plants,'' and related matters.

1 p.m.–3 p.m.: Pellet-Clad Interaction Failures under Extended Power Uprate Conditions (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and nuclear industry regarding pellet-clad interaction failures under extended power uprate conditions, and related matters. [**Note:** A portion of this Session may be closed pursuant to 5 U.S.C. 552b(c)(4), to discuss project information that is proprietary to Global Nuclear Fuel (GNF) and/or Westinghouse, or their contractors.]

3:15 p.m.–4:45 p.m. Diversity and Defense-in-Depth Topical Report Associated with the US–APWR Design (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Mitsubishi Heavy Industries, Ltd., regarding the Diversity and Defense-in-Depth Topical Report and the associated NRC staff's Safety Evaluation Report associated with the US–Advanced Pressurized Water Reactor (US–APWR) Design, and related matters.

5 p.m.–5:15 p.m.: Subcommittee Report (Open)—The Committee will hear a report by and hold discussions with the Chairmen of the Reliability and PRA Subcommittee regarding (i) proposed Rev. 1 to Regulatory Guide 1.205, ''Risk-Informed, Performance-Based Fire Protection for Existing Light-Water Nuclear Power Plants,'' and proposed Standard Review Plan Section 9.5.1.2, ''Risk-Informed, Performance-Based Fire Protection, (ii) development of guidelines for performing human reliability analysis in fire probabilistic risk assessments, and (iii) risk metrics for new light-water reactor risk-informed applications, that were discussed during the meeting on June 1–2, 2009.

5:15 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting.

Thursday, June 4, 2009, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:30 a.m.: Quality Assessment of Selected Research Projects (Open)—The Committee will hear reports by and hold discussions with the members of the ACRS Panels regarding the quality assessment of the NRC research projects on: NUREG/CR–6964, ''Crack Growth Rates and Metallographic Examinations of Alloy 600 and Alloy 82/182 from Field and Laboratory Materials Testing in PWR Environments,'' and Draft NUREG/CR–XXXX, ''Diversity Strategies for Nuclear Power Plant Instrumentation and Control Systems.''

9:45 a.m.–10:45 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future ACRS meetings and other matters related to the conduct of ACRS business. [**Note:** A portion of this Session may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

10:45 a.m.–11 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

11:15 a.m.–12:15 p.m.: Discussion of Topics for Meeting with the Commission (Open)—The Committee will discuss the following topics scheduled for the meeting with the Commission on June 4, 2009: Crediting Containment Accident Pressure in the NPSH Calculations, Pressurized Thermal Shock Rule, Digital Instrumentation and Control Matters, Options to Revise NRC Regulations Based on the International Commission on Radiation Protection (ICRP) Recommendations, and Progress on Recommendations of the Independent External Review Panel on the Materials Licensing Program.

1:30 p.m.–3:30 p.m.: Meeting with the Commission (Open)—The Committee will meet with the Commission at the Commissioners' Conference Room, One White Flint North, to discuss the topics noted above.

4 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Friday, June 5, 2009, Conference Room T–2B3, Two White Flint North, Rockville, Maryland

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

12:30 p.m.–1 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008, (73 FR 58268–58269). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Public Law 92–463, I have determined that it may be necessary to close a portion of this meeting noted above to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(2) and (6). In addition it may be necessary to close portion of the meeting to protect information designated as proprietary by Global Nuclear Fuel and/or Westinghouse or their contractors pursuant to 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Girija Shukla, Cognizant ACRS staff (301–415–6855), between 7:15 a.m. and 5 p.m. (ET). ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m.–3:45 p.m., (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: *May 12, 2009.*

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E9–11531 Filed 5–15–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0167; Forms RI 34–1, RI 34–3, RI 34–17, and RI 34–19]

Submission for OMB Review; Request for Clearance of a Revised Information Collection

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) has submitted to the Office of Management and Budget (OMB) a request for clearance of a revised information collection. This information collection, ''Financial Resources Questionnaire'' (OMB Control No. 3206–0167; Forms RI 34–1 and RI 34–17), collects detailed financial information for use by OPM to determine whether to agree to a waiver, compromise, or adjustment of the collection of erroneous payments from the Civil Service Retirement and Disability Fund. ''Notice of Amount Due Because Of Annuity Overpayment'' (OMB Control No. 3206–0167; forms RI 34–3 and RI 34–19), informs the annuitant about the overpayment and collects information from the annuitant about how repayment will be made.

Approximately 450 RI 34–1 and 70 RI 34–17 forms are completed annually. Approximately 1,351 RI 34–3 and 210 RI 34–19 forms are completed annually. Each form takes approximately 60 minutes to complete. The annual estimated burden is 450 hours (RI 34–1), 70 hours (RI 34–17), 1,351 hours (RI 34–3) and 210 hours (RI 34–19) respectively. The total annual estimated burden is 2,081 hours.

For copies of this proposal, contact Cyrus S. Benson by telephone at (202) 606–0623, by FAX (202) 606–0910, or by e-mail at *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to:

James K. Freiert, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500; and

Alexander Hunt, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–0623.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–11506 Filed 5–15–09; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: (OMB Control No. 3206–0034; RI 30–2)

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 (OMB) a request for review of a revised information collection. This information collection, ''Annuitant's Report of Earned Income'' (OMB Control No. 3206–0034; RI 30–2), is used annually to determine if disability retirees under age 60 have earned income which will result in the termination of their annuity benefits.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, 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.

We estimate 21,000 RI 30–2 forms are completed annually. The RI 30–2 takes approximately 35 minutes to complete for an estimated annual burden of 12,250 hours. For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via E-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—James K. Freiert, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20503, (202) 606–0623.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–11525 Filed 5–15–09; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59904; File No. SR–ISE–2009–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange Relating to Far Away Market Maker Fees

May 12, 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 29, 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 ISE has filed the proposed rule change as one establishing or changing a due, fee, or other charge imposed by the ISE under Section 19(b)(3)(A)(ii) of the Act[3] and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its Schedule of Fees to adopt a fee discount for Far Away Market Maker orders that trade in the Exchange's Price Improvement Mechanism. 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

1. Purpose

The Exchange is proposing to amend its Schedule of Fees to adopt a fee discount for Far Away Market Maker (''FARMM'') orders that trade in the Exchange's Price Improvement Mechanism (''PIM''). FARMM orders are orders that are sent to the Exchange by an Electronic Access Member (''EAM'') on behalf of a non-ISE market maker. ISE currently charges FARMM orders a fee of $0.45 per contract, except for orders entered on behalf of FARMMs in the Exchange's Facilitation and Solicitation Mechanisms. Those orders provide liquidity and are thus charged a discounted transaction fee of $0.20 per contract.

The PIM is a process by which an EAM can provide price improvement opportunities for a transaction where the EAM seeks to facilitate an order it represents as agent, and/or a transaction wherein the EAM solicited interest to execute against an order it represents as agent. In order to encourage FARMMs to provide liquidity to our PIM, we propose to charge EAMs a discounted fee of $0.20 per contract when it enters an order into the PIM with a FARMM providing liquidity (and any liquidity that a FARMM provides in response to the PIM). For example, an EAM may use an affiliated FARMM to provide the liquidity for an order it is entering into the PIM. In that case, we would charge the EAM only $.20 a contract, not the regular $.45 FARMM fee. The discount would not apply to other EAMs responding to the PIM order representing FARMM interest. Those contracts will continue to be charged $0.45 per contract. This fee change will be operative on May 1, 2009.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[5] in general, and furthers the objectives of Section 6(b)(4),[6] 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, lowering the transaction fee for FARMM orders that trade in the Exchange's PIM will attract additional order flow to the Exchange and provide liquidity to the PIM.

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 Act[7] and Rule 19b–4(f)(2)[8] 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.

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–ISE–2009–22 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–2009–22. 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 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–2009–22 and should be submitted on or before June 8, 2009.

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 19b–4(f)(2) [sic].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–11468 Filed 5–15–09; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 6618]

In the Matter of the Review of the Designation of Revolutionary Organization 17 November, as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the 2003 re-designation of the aforementioned organization as a foreign terrorist organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation.

Therefore, I hereby determine that the designation of the aforementioned organization as a foreign terrorist organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained.

This determination shall be published in the **Federal Register**.

Dated: April 22, 2009.

James B. Steinberg,

Deputy Secretary of State, Department of State.

[FR Doc. E9–11550 Filed 5–15–09; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 6617]

In the Matter of the Designation of Revolutionary Struggle aka Epanastatikos Aghonas as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA'') (8 U.S.C. 1189), exist with respect to Revolutionary Struggle (aka Epanastatikos Aghonas).

Therefore, I hereby designate that organization and its alias as a foreign terrorist organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register.**

Dated: April 29, 2009.

Hillary Rodham Clinton,

Secretary of State, Department of State.

[FR Doc. E9–11546 Filed 5–15–09; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 6619]

In the Matter of the Designation of Revolutionary Nuclei, a.k.a. Revolutionary Cells a.k.a. ELA a.k.a. Epanastatiki Pirines a.k.a. Epanastatikos Laikos Agonas a.k.a. June 78 a.k.a. Liberation Struggle a.k.a. Organization of Revolutionary Internationalist Solidarity a.k.a. Popular Revolutionary Struggle a.k.a. Revolutionary People's Struggle a.k.a. Revolutionary Popular Struggle as a Foreign Terrorist Organization pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Records assembled in this matter pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) (''INA''), and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that the circumstances that were the basis for the 2003 re-designation of Revolutionary Nuclei as a foreign terrorist organization have changed in such a manner as to warrant a revocation of the designation.

Therefore, I hereby revoke the designation of the aforementioned organization as a foreign terrorist organization, pursuant to Section 219 of the INA (8 U.S.C. 1189).

This determination shall be published in the **Federal Register.**

Dated: April 29, 2009.

Hillary Rodham Clinton,

Secretary of State, Department of State.

[FR Doc. E9–11549 Filed 5–15–09; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 6616]

Determination and Certification Under Section 40a of the Arms Export Control Act

Pursuant to section 40A of the Arms Export Control Act (22 U.S.C. 2781), and Executive Order 11958, as amended, I hereby determine and certify to the Congress that the following countries are not cooperating fully with United States antiterrorism efforts: Cuba, Eritrea, Iran, Democratic People's Republic of Korea (DPRK, or North Korea), Syria, Venezuela.

This determination and certification shall be transmitted to the Congress and published in the **Federal Register.**

Dated: May 8, 2009.

James B. Steinberg,

Deputy Secretary of States, Department of State.

[FR Doc. E9–11545 Filed 5–15–09; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. OST–2009–0115]

Interim Notice of Funding Availability for Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure Under the American Recovery and Reinvestment Act and Request for Comments on Grant Criteria

AGENCY: Office of the Secretary of Transportation (''OST''), DOT.

ACTION: Interim Notice of Funding Availability, Request for Comments on Grant Criteria.

SUMMARY: On February 17, 2009, the President of the United States signed the American Recovery and Reinvestment Act of 2009 (the ''Recovery Act'') to, among other purposes, (1) preserve and create jobs and promote economic recovery, (2) invest in transportation infrastructure that will provide long-term economic benefits, and (3) assist those most affected by the current economic downturn. The Recovery Act appropriated $1.5 billion of discretionary grant funds to be awarded by the Department of Transportation (the ''Department'') for capital investments in surface transportation infrastructure. The Department is referring to these grants as ''Grants for Transportation Investment Generating Economic Recovery'' or ''TIGER

[9] 17 CFR 200.30–3(a)(12).

Discretionary Grants.'' This notice requests that applications for TIGER Discretionary Grants be submitted by September 15, 2009, from State and local governments, including U.S. territories, tribal governments, transit agencies, port authorities, other political subdivisions of State or local governments, and multi-State or multi-jurisdictional applicants (''Eligible Applicants''). The funds provided by TIGER Discretionary Grants (''Grant Funds'') will be awarded on a competitive basis to projects that have a significant impact on the Nation, a metropolitan area, or a region.

The Recovery Act allows for up to $200 million of the $1.5 billion to be used to pay the subsidy and administrative costs of the Transportation Infrastructure Finance and Innovation Act of 1998 (''TIFIA'') program, a Federal credit assistance program, if it would further the purposes of the TIGER Discretionary Grants program. The Department is referring to these payments as ''TIGER TIFIA Payments.'' The Department estimates that $200 million of TIGER TIFIA Payments could support approximately $2 billion in TIFIA credit assistance. Applicants for TIGER TIFIA Payments will be required to submit an application pursuant to this notice and a separate TIFIA loan application. Additional details are included below in Section VI (*TIGER TIFIA Payments*). Unless otherwise noted, or the context requires otherwise, references in this notice to TIGER Discretionary Grants include TIGER TIFIA Payments.

This notice announces the availability of funding for TIGER Discretionary Grants, project selection criteria, application requirements and the deadline for submitting applications. However, because this is a new program, this notice also requests comments on the proposed selection criteria and guidance for awarding TIGER Discretionary Grants. The Department will take all comments into consideration and may publish a supplemental notice revising some elements of this notice. If the Department determines that no substantive changes need to be made in this notice, the Department will respond to all comments when it publishes a **Federal Register** notice announcing the successful applications. If substantive changes are necessary, the Department will publish a supplemental **Federal Register** notice and request for applications by June 17, 2009. Depending on the nature of the comments and the number of initial applications received, the Department may award funds based on the initial applications without publishing a supplemental notice. In addition, in the event that this solicitation does not result in the award and obligation of all available funds, the Department may decide to publish an additional solicitation.

DATES: Comments must be received by June 1, 2009. Late-filed comments will be considered to the extent practicable. Complete applications for TIGER Discretionary Grants must be submitted by September 15, 2009 (the ''Application Deadline''). Due to the need to expedite the grant award process to meet the requirements and purposes of the Recovery Act, the Department will evaluate all applications and announce the projects that have been selected to receive Grant Funds as soon as possible after the Application Deadline, but no later than February 17, 2010. In addition, in the event that this solicitation does not result in the award and obligation of all available funds, the Department may decide to publish an additional solicitation.

ADDRESSES: *For Comments:* You must include the agency name (Office of the Secretary of Transportation) and the docket number [OST–2009–0115] with your comments. To ensure your comments are not entered into the docket more than once, please submit comments, identified by the docket number [OST–2009–0115], by only one of the following methods:

Web site: The U.S. Government electronic docket site is *www.regulations.gov*. Go to this Web site and follow the instructions for submitting comments into docket number [OST–2009–0115];

Fax: Telefax comments to [OST–2009–0115];

Mail: Mail your comments to U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, Room W12–140, Washington, DC 20590; or

Hand Delivery: Bring your comments to 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions for submitting comments: You must include the agency name (Office of the Secretary of Transportation) and Docket number [OST–2009–0115] for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail or courier. For confirmation that the Office of the Secretary of Transportation, has received your comments, you must include a self-addressed stamped postcard. Note that all comments received will be posted without change to *www.regulations.gov,* including any personal information provided, and will be available to Internet users. You may review the Department's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov*.

For Applications: Applications must be submitted to the TIGER Discretionary Grants program manager electronically via e-mail at *TIGERGrants@dot.gov*. Applicants should receive a confirmation e-mail, but are advised to request a return receipt to confirm transmission. Only applications received via e-mail as provided above shall be deemed properly filed.

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice please contact the TIGER Discretionary Grants program manager via e-mail at *TIGERGrants@dot.gov*. A TDD is available at 202–366–7687.

SUPPLEMENTARY INFORMATION: In addition to announcing funding availability, project selection criteria, application requirements and the deadline for submitting applications, this notice also requests comments on the proposed selection criteria and guidance for awarding TIGER Discretionary Grants. The Department will take all comments into consideration and may publish a supplemental notice revising some elements of this notice. If the Department determines that no substantive changes need to be made in this notice, the Department will respond to all comments when it publishes a **Federal Register** notice announcing the successful applications. If substantive changes are necessary, the Department will publish a supplemental **Federal Register** notice and request for applications by June 17, 2009. Depending on the nature of the comments and the number of initial applications received, the Department may award funds based on the initial applications without publishing a supplemental notice. In addition, in the event that this solicitation does not result in the award and obligation of all available funds, the Department may decide to publish an additional solicitation.

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I. Background

On February 17, 2009, the President of the United States signed the Recovery Act in order to, among other purposes, (1) preserve and create jobs and promote economic recovery, (2) invest in transportation and other infrastructure that will provide long-term economic benefits, and (3) assist those most affected by the current economic downturn.

The Recovery Act appropriated $1.5 billion of supplemental discretionary grant funding for TIGER Discretionary Grants. These funds are available for obligation to Eligible Applicants until September 30, 2011. Pursuant to the Recovery Act, TIGER Discretionary Grants are to be awarded on a competitive basis to projects that have a significant impact on the Nation, a metropolitan area, or a region.

Projects that are eligible for TIGER Discretionary Grants under the Recovery Act (''Eligible Projects'') include, but are not limited to: (1) Highway or bridge projects eligible under title 23, United States Code, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; (2) public transportation projects eligible under chapter 53 of title 49, United States Code, including investments in projects participating in the New Starts or Small Starts programs that will expedite the completion of those projects and their entry into revenue service; (3) passenger and freight rail transportation projects; and (4) port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement. Federal wage rate requirements included in subchapter IV of chapter 31 of title 40, United States Code, apply to all projects receiving funds.

The Recovery Act specifies that grants funded under the program may be no less than $20 million and no greater than $300 million. However, the Recovery Act gives the Department discretion to waive the $20 million minimum grant size for the purpose of funding significant projects in smaller cities, regions, or States (''Smaller Projects''). The term ''grant'' in this provision of the Recovery Act does not include TIGER TIFIA Payments.

Pursuant to the Recovery Act, no more than 20 percent of the funds made available under this program may be awarded to projects in a single State. The Department must take measures to ensure an equitable geographic distribution of funds and an appropriate balance in addressing the needs of urban and rural communities. TIGER Discretionary Grants may be used for up to 100 percent of project costs, but priority must be given to projects for which Federal funding is required to complete an overall financing package that includes non-Federal sources of funds. Priority must also be given to projects that can be completed by February 17, 2012.

The Recovery Act permits up to $200 million of the $1.5 billion appropriated to be used for TIGER TIFIA Payments at the Department's discretion if it would further the purposes of the TIGER Discretionary Grants program. TIFIA is a Federal credit assistance program that provides secured loans, loan guarantees and lines of credit to borrowers for up to 33 percent of the costs of major surface transportation projects.

On March 20, 2009, the President of the United States signed a memorandum for the heads of executive departments and agencies on ensuring responsible spending of Recovery Act funds. The memorandum directs the Department to develop transparent, merit-based selection criteria to guide the commitment, obligation and expenditure of TIGER Discretionary Grant funds.

The memorandum directs departments and agencies to award TIGER Discretionary Grants to projects with a demonstrated or potential ability to: ''(i) Deliver programmatic results; (ii) achieve economic stimulus by optimizing economic activity and the number of jobs created or saved in relation to the Federal dollars obligated; (iii) achieve long-term public benefits by, for example, investing in technological advances in science and health to increase economic efficiency and improve quality of life; investing in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; fostering energy independence; or improving educational quality; and (iv) satisfy the Recovery Act's transparency and accountability objectives.''

The purpose of this notice is to solicit applications from Eligible Applicants interested in receiving funds under this program and to request comments on the selection criteria and guidance outlined in this notice.

II. Selection Criteria and Guidance on Application of Selection Criteria

This section specifies the criteria that the Department will use to evaluate applications. The criteria incorporate the limited statutory eligibility requirements for this program, which are specified in this notice as relevant. This section is split into three parts. Section A (*Selection Criteria*) specifies the criteria that the Department will use to rate projects. Additional guidance about how the Department will apply these criteria, including illustrative metrics and examples, is provided in Section B (*Additional Guidance on Selection Criteria*). Section C (*Program-Specific Criteria*) explains how the Department is going to use certain program-specific criteria to help differentiate between similar projects (for example, multiple bridge replacement projects, or multiple New Starts projects). The program-specific criteria will not be rated as the selection criteria are rated, but rather will be used to assign priority among similar projects during the evaluation and selection process. As stated below in Section VII(F) (*Contents of Application, Selection Criteria*), applicants should address both the selection criteria and the program-specific criteria in their applications.

A. Selection Criteria

TIGER Discretionary Grants will be awarded based on the selection criteria as outlined below. There are two categories of selection criteria, ''Primary Selection Criteria'' and ''Secondary Selection Criteria.''

The Primary Selection Criteria include (1) Long-Term Outcomes and (2) Jobs Creation & Economic Stimulus. The Secondary Selection Criteria include (1) Innovation and (2) Partnership. The Primary Selection Criteria are intended to capture the primary objectives of the TIGER Discretionary Grants provision of the Recovery Act, which include near-term economic recovery and job creation, maximization of long-term economic benefits and impacts on the Nation, a region, or a metropolitan area, and assistance for those most affected by the current economic downturn. The Secondary Selection Criteria are intended to capture the benefits of new and/or innovative approaches to achieving programmatic objectives.

1. Primary Selection Criteria

(a) Long-Term Outcomes

The Department will give priority to projects that have a significant impact on desirable long-term outcomes for the Nation, a metropolitan area, or a region. Applications that do not demonstrate a likelihood of significant long-term benefits in this criterion will not proceed in the evaluation process. The following types of long-term outcomes will be given priority:

(i) *State of Good Repair:* Improving the condition of existing transportation facilities and systems, with particular emphasis on projects that minimize life-cycle costs.

(ii) *Economic Competitiveness:* Contributing to the economic competitiveness of the United States over the medium- to long-term.

(iii) *Livability:* Improving the quality of living and working environments and the experience for people in communities across the United States.

(iv) *Sustainability:* Improving energy efficiency, reducing dependence on oil, reducing greenhouse gas emissions and benefitting the environment.

(v) *Safety:* Improving the safety of U.S. transportation facilities and systems.

(b) Job Creation & Economic Stimulus

Consistent with the purposes of the Recovery Act, the Department will give priority to projects that are expected to quickly create and preserve jobs and stimulate rapid increases in economic activity, particularly jobs and activity that benefit economically distressed areas as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161) (''Economically Distressed Areas'').

2. Secondary Selection Criteria

(a) Innovation

The Department will give priority to projects that use innovative strategies to pursue the long-term outcomes outlined above.

(b) Partnership

The Department will give priority to projects that demonstrate strong collaboration among a broad range of participants and/or integration of transportation with other public service efforts.

B. Additional Guidance on Selection Criteria

The following additional guidance explains how the Department will evaluate each of the selection criteria identified above in Section II(A) (*Selection Criteria*). Applicants are encouraged to demonstrate the responsiveness of a project to any and all of the selection criteria with the most relevant information that applicants can provide, regardless of whether such information has been specifically requested, or identified, in this notice. Any such information shall be considered part of the application, not supplemental, for purposes of the application size limits specified below in Section VII(A) (*Length of Application*).

1. Primary Selection Criteria

(a) Long-Term Outcomes

In order to measure a project's alignment with this criterion, the Department will assess the public benefits generated by the project, as measured by the extent to which a project produces one or more of the following outcomes.

(i) *State of Good Repair:* In order to determine whether the project will improve the condition of existing transportation facilities or systems, including whether life-cycle costs will be minimized, the Department will assess (i) whether the project is part of, or consistent with, relevant state, local or regional efforts to maintain transportation facilities or systems in a state of good repair, (ii) whether an important aim of the project is to rehabilitate, reconstruct or upgrade surface transportation projects that threaten future economic growth and stability due to their poor condition, (iii) whether the project is appropriately capitalized up front and uses asset management approaches that optimize its long-term cost structure, and (iv) the extent to which a sustainable source of revenue is available for long-term operations and maintenance of the project. The application should include any quantifiable metrics of the facility or system's current condition and performance and, to the extent possible, projected condition and performance, with an explanation of how the project will improve the facility or system's condition, performance and/or long-term cost structure.

(ii) *Economic Competitiveness:* In order to determine whether a project promotes the economic competitiveness of the United States, the Department will assess whether the project will measurably contribute over the long-term to growth in employment, production or other high value economic activity. For purposes of aligning a project with this outcome, applicants should provide evidence of the long-term economic benefits that are provided by the completed project, not the near-term economic benefits of construction that are captured in the Jobs Creation & Economic Stimulus criterion. In weighing long-term employment benefits, the quality of jobs supported will be considered as well as number of jobs and whether these jobs are expected to provide employment in Economically Distressed Areas. Priority consideration will be given to projects that: (i) Improve long term efficiency, reliability or cost-competitiveness in the movement of workers or goods, or (ii) make improvements that allow for expansion, hiring, or other growth of private sector production at specific locations, particularly Economically Distressed Areas. Applicants may propose other methods of demonstrating a project's contribution to the economic competitiveness of the country and such methods will be reviewed on a case by case basis.

Economic competitiveness may be demonstrated by the project's ability to increase the efficiency and effectiveness of the transportation system through integration or better use of all existing transportation infrastructure (which may be evidenced by the project's involvement with or benefits to more than one mode and/or its compatibility with and preferably augmentation of the capacities of connecting modes and facilities), but only to the extent that these enhancements lead to the economic benefits that are identified in the preceding paragraph.

(iii) *Livability:* Livability investments are projects that not only deliver transportation benefits, but are also designed and planned in such a way that they have a positive impact on qualitative measures of community life. This element of long-term outcomes delivers benefits that are inherently difficult to measure. However, it is implicit to livability that its benefits are shared and therefore magnified by the number of potential users in the affected community. Therefore, descriptions of how projects enhance livability should include a description of the affected community and the scale of the project's impact. In order to determine whether a project improves the quality of the living and working environment of a community, the Department will qualitatively assess whether the project:

(1) Will significantly enhance user mobility through the creation of more convenient transportation options for travelers;

(2) Will improve existing transportation choices by enhancing points of modal connectivity or by reducing congestion on existing modal assets;

(3) Will improve accessibility and transport services for economically disadvantaged populations, non-drivers, senior citizens, and persons with disabilities, or to make goods, commodities, and services more readily available to these groups; and/or

(4) Is the result of a planning process which coordinated transportation and land-use planning decisions and encouraged community participation in the process.

Livability improvements may include projects for new or improved biking and walking infrastructure. Particular attention will be paid to the degree to which such projects contribute significantly to broader traveler mobility through intermodal connections, or improved connections between residential and commercial areas.

(iv) *Sustainability:* In order to determine whether a project promotes a more environmentally sustainable transportation system, the Department will assess its ability to:

(1) improve energy efficiency, reduce dependence on oil and/or reduce greenhouse gas emissions; applicants are encouraged to provide quantitative information regarding expected reductions in emissions of CO_2 or fuel consumption as a result of the project, or expected use of clean or alternative sources of energy; projects that demonstrate a projected decrease in the movement of people or goods by less energy-efficient vehicles or systems will be given priority under this factor; and

(2) maintain, protect or enhance the environment, as evidenced by its avoidance of adverse environmental impacts (for example, adverse impacts related to air quality, wetlands, and endangered species) and/or by its environmental benefits (for example, improved air quality, wetlands creation or improved habitat connectivity).

Applicants are encouraged to provide quantitative information that validates the existence of substantial transportation-related costs related to energy consumption and adverse environmental effects and evidence of the extent to which the project will reduce or mitigate those costs.

(v) *Safety:* In order to determine whether the project improves safety, the Department will assess the project's ability to reduce the number, rate and consequences of surface transportation-related crashes, and injuries and fatalities among drivers and/or non-drivers in the United States or in the affected metropolitan area or region, and/or its contribution to the elimination of highway/rail grade crossings, the protection of pipelines, or the prevention of unintended release of hazardous materials.

Evaluation of Expected Project Costs and Benefits: The Department believes that benefit cost analysis (''BCA''), including the monetization and discounting of costs and benefits to a common unit of measurement in present day dollars, is an important discipline. For BCA to yield useful results, the Department believes that full consideration of cost and benefits is necessary. These range from factors traditionally considered, including fuel savings and travel time benefits, to some that have not traditionally been considered, such as greenhouse gas emissions, water quality impacts, public health effects, and others. In addition, to be fully useful, BCA should attempt to capture the dynamic effects that transportation investments can have on land use and household budgets. The systematic process of comparing expected benefits and costs helps decision-makers organize information about, and determine trade-offs between, alternative transportation investments. The Department has responsibility under Executive Order 12893, Principles for Federal Infrastructure Investments, 59 FR 4233, to base infrastructure investments on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures.

Therefore, applicants for TIGER Discretionary Grants are generally required to identify, quantify, and compare expected benefits and costs, subject to the following qualifications:

This requirement will be waived for applicants seeking waivers of the $20 million minimum grant size requirement for Smaller Projects.

Any applicant seeking a TIGER Discretionary Grant of more than $20 million but less than $100 million must include in its application estimates of the project's expected benefits in the five long-term outcomes identified in this Section II(A)(1)(a). The lack of a useful analysis of expected project benefits may be ground for denying award of a TIGER Discretionary Grant to any such applicant.

Any applicant seeking a TIGER Discretionary Grant in excess of $100 million must provide a well-developed analysis of expected benefits and costs, including a description of input and output requirements and other methodological standards used for the analysis. The analysis should indicate the value that was assigned for qualitative measures, in addition to quantitative measures. Where information on costs and benefits, including consideration of externalities, is of sufficient quality and completeness to allow for a robust assessment of a project's benefit cost ratio, this analysis should be presented. In doing so, applicants should discuss the effects that better or more complete information would be likely to have on the benefit cost ratio presented and the reasons such information was not available for analysis. Where quality or completeness of data is not sufficient to allow a meaningful assessment of whether a project's benefit cost ratio is positive or negative, applicants should discuss the data limitations that lead to this conclusion and present a qualitative comparison of costs and benefits. The lack of a useful analysis comparing expected benefits and costs for any such project may be ground for denying award of a TIGER Discretionary Grant to such an applicant.

The Department is still considering how best to implement this requirement for applicants seeking TIGER Discretionary Grants in excess of $100 million. The Department therefore requests comments on appropriate input and output requirements, methodological standards, and other characteristics of this analysis. Comments are also requested on how this approach might best be applied to criteria that do not readily lend themselves to monetization. As soon as possible after the comment period, DOT will publish more detailed guidance on the analysis required for applicants seeking TIGER Discretionary Grants in excess of $100 million.

In all cases, if it is clear to the Department that the total benefits of a project are not reasonably likely to outweigh the project's costs, the Department will not award a TIGER Discretionary Grant to the project. Consistent with the broader goals of the Recovery Act and the specific appropriation for the TIGER Discretionary Grants program, the Department can consider some factors that do not readily lend themselves to monetization, including equity, and distributional, geographic and other considerations.

Evaluation of Project Performance: The Department also encourages applicants with the requisite wherewithal to provide a plan for evaluating the success of the project (or a program of projects) and measuring short- and long-term performance, specifically with respect to the economic recovery measures and long-term outcomes specified in this notice.

(b) Job Creation & Economic Stimulus

In order to measure a project's alignment with this criterion, the

Department will assess whether the project promotes the short- or long-term creation or preservation of jobs and whether the project rapidly promotes new or expanded business opportunities during construction of the project or thereafter. Demonstration of a project's rapid economic impact is critical to a project's alignment with this criterion. Applicants are encouraged to provide information to assist the Department in making these assessments, including the total amount of funds that will be expended on construction and construction-related activities by all of the entities participating in the project and, to the extent measurable, the number and type of jobs to be created and/or preserved by the project during construction and thereafter. Applicants should also identify any business enterprises to be created or benefited by the project during its construction and once it becomes operational.

Consistent with the Recovery Act, the Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009 issued by the Office of Management and Budget (''OMB'') on April 3, 2009 (the ''OMB Guidance''), and federal laws guaranteeing equal opportunity, applicants are encouraged to provide information to assist the Department in assessing (1) whether the project will promote the creation of job opportunities for low-income workers through the use of best practice hiring programs and utilization of apprenticeship (including pre-apprenticeship) programs; (2) whether the project will provide maximum practicable opportunities for small businesses and disadvantaged business enterprises, including veteran-owned small businesses and service disabled veteran-owned small businesses; (3) whether the project will make effective use of community-based organizations in connecting disadvantaged workers with economic opportunities; (4) whether the project will support entities that have a sound track record on labor practices and compliance with federal laws ensuring that American workers are safe and treated fairly; and (5) whether the project implements best practices, consistent with our nation's civil rights and equal opportunity laws, for ensuring that all individuals—regardless of race, gender, age, disability, and national origin—benefit from the Recovery Act.

To the extent possible, applicants should indicate whether the populations most likely to benefit from the creation or preservation of jobs or new or expanded business opportunities are from Economically Distressed Areas. In addition, to the extent possible, applicants should indicate whether the project's procurement plan is likely to create follow-on jobs and economic stimulus for manufacturers and suppliers that support the construction industry. A key consideration in assessing projects under this criterion will be how quickly jobs are created.

Consistent with Section 1602 of the Recovery Act (*Preference for Quick-Start Activities*), the Department will assess whether a project is ready to proceed rapidly upon receipt of a TIGER Discretionary Grant, as evidenced by:

(i) *Project Schedule:* A feasible and sufficiently detailed project schedule demonstrating that the project can begin construction quickly upon receipt of a TIGER Discretionary Grant and that the Grant Funds will be spent steadily and expeditiously once construction starts; the schedule should show how many direct, on-project jobs are expected to be created or sustained during each calendar quarter after the project is underway;

(ii) *Environmental Approvals:* Receipt (or reasonably anticipated receipt) of all environmental approvals necessary for the project to proceed to construction on the timeline specified in the project schedule, including satisfaction of all Federal, State and local requirements and completion of the National Environmental Policy Act process;

(iii) *Legislative Approvals:* Receipt of all necessary legislative approvals (for example, legislative authority to charge user fees or set toll rates), and evidence of support from State and local officials, including relevant governor(s) and/or mayors. Evidence of support from all relevant State and local officials is not required, however, the evidence should demonstrate that the project is broadly supported;

(iv) *State and Local Planning:* The inclusion of the project in the relevant State, metropolitan, and local planning documents, or a certification from the appropriate agency that the project will be included in the relevant planning document prior to award of a TIGER Discretionary Grant;

(v) *Technical Feasibility:* The technical feasibility of the project, including completion of substantial preliminary engineering work; and

(vi) *Financial Feasibility:* The viability and completeness of the project's financing package (assuming the availability of the requested TIGER Discretionary Grant funds), including evidence of stable and reliable financial commitments and contingency reserves, as appropriate, and evidence of the grant recipient's ability to manage grants.

The Department reserves the right to revoke any award of TIGER Discretionary Grant funds and to award such funds to another project to the extent that such funds are not timely expended and/or construction does not begin in accordance with the project schedule. Because projects have different schedules the Department will consider on a case-by-case basis how much time after award of a TIGER Discretionary Grant each project has before funds must be expended and construction started. This deadline will be specified for each TIGER Discretionary Grant in the project-specific grant agreements signed by the grant recipients and will be based on critical path items identified by applicants in response to items (i) through (vi) above. For example, if an applicant reasonably anticipates that National Environmental Policy Act requirements will be completed and final documentation received within 30 to 60 days of award of a TIGER Discretionary Grant, this timeframe will be taken into account in evaluating the application, but also in establishing a deadline for expenditure of funds and commencement of construction. The Department's ability to obligate funds for TIGER Discretionary Grants expires on September 30, 2011.

In compliance with the Recovery Act, the Department will give priority to projects that are expected to be completed on or before February 17, 2012. For purposes of this solicitation, ''completed'' means that all of the TIGER Discretionary Grant funds awarded to the project have been obligated and expended and construction of the project is substantially complete.

The ability of the grant recipient to complete the project by this date must be clearly demonstrated in the project schedule. The Department will give priority to projects that utilize innovative contracting approaches that encourage accelerated project delivery. The Department will consider projects that are not expected to be completed by February 17, 2012, but these projects will not be rated as highly under this criterion.

2. Secondary Selection Criteria

(a) Innovation

In order to measure a project's alignment with this criterion, the Department will assess the extent to which the project uses innovative technology (including, for example, intelligent transportation systems, dynamic pricing, rail wayside or on-board energy recovery, smart cards, real-

time dispatching, active traffic management, radio frequency identification (RFID), or others) to pursue one or more of the long-term outcomes outlined above and/or to significantly enhance the operational performance of the transportation system. The Department will also assess the extent to which the project incorporates innovations that demonstrate the value of new approaches to, among other things, transportation funding and finance, contracting, project delivery, congestion management, safety management, asset management, or long-term operations and maintenance. The applicant should clearly demonstrate that the innovation is designed to pursue one or more of the long-term outcomes outlined above and/or significantly enhance the transportation system.

(b) Partnership

(i) *Jurisdictional & Stakeholder Collaboration:* In order to measure a project's alignment with this criterion, the Department will assess the project's involvement of non-Federal entities and the use of non-Federal funds, including the scope of involvement and share of total funding. The Department will give priority to projects that receive financial commitments from, or otherwise involve, State and local governments, other public entities, or private or nonprofit entities, including projects that engage parties that are not traditionally involved in transportation projects, such as nonprofit community groups. Pursuant to the OMB Guidance, the Department will give priority to projects that make effective use of community-based organizations in connecting disadvantaged people with economic opportunities.

In compliance with the Recovery Act, the Department will give priority to projects for which a TIGER Discretionary Grant will help to complete an overall financing package. An applicant should clearly demonstrate the extent to which the project cannot be readily and efficiently completed without Federal assistance, and the extent to which other sources of Federal assistance are or are not readily available for the project, including other funds made available pursuant to the Recovery Act. The Department will assess the amount of private debt and equity to be invested in the project or the amount of co-investment from State, local or other non-profit sources.

The Department will also assess the extent to which the project demonstrates collaboration among neighboring or regional jurisdictions to achieve National, regional or metropolitan benefits. Multiple States or jurisdictions may submit a joint application and should identify a lead State or jurisdiction as the primary point of contact. Where multiple States are submitting a joint application, the application should demonstrate how the project costs are apportioned between the States to assist the Department in making the distributional determinations described below in Section III(C) (*Distribution of Funds*).

(ii) *Disciplinary Integration:* In order to demonstrate the value of partnerships across government agencies that serve the various public service missions forwarded by the Recovery Act and to promote collaboration on the objectives outlined in this notice, the Department will give priority to projects that are supported, financially or otherwise, by non-transportation public agencies that are pursuing similar objectives. For example, the Department will give priority to transportation projects that create more livable communities and are supported by relevant public housing agencies, or transportation projects that encourage energy efficiency or improve the environment and are supported by relevant public agencies with energy or environmental missions.

C. Program-Specific Criteria

The Department will use certain program-specific criteria in the evaluation and selection process to help differentiate between similar projects. Similar projects are those that have similar characteristics and satisfy the eligibility requirements of existing programmatic structures (for example, two urban light rail projects eligible to participate in the New Starts program). To the extent two or more similar projects have similar ratings based on the selection criteria outlined in Section II(A) (*Selection Criteria*), the program-specific criteria will be used to assign priority among these projects.

Projects will not be given specific ratings of ''highly recommended,'' ''recommended'' or ''not recommended'' for applicable program-specific criteria; rather, the Department will use the program-specific criteria to rank similar projects. To the extent otherwise similar projects can be differentiated based on the selection criteria, program-specific criteria will not be given any weight.

The program-specific criteria are not intended to limit the number of similar projects that can receive TIGER Discretionary Grants.

Program-specific criteria will only be applied to the types of projects identified below. Any other type of project will be differentiated from other similar projects solely based on the selection criteria outlined in Section II(A) (*Selection Criteria*). The Department will use the following program-specific criteria, where applicable, to assign priority among similar projects:

1. For bridge replacement projects, program-specific criteria are the following criteria found in 23 CFR 707: Total daily truck and non-truck traffic, bridge sufficiency ratings, and bridges with load or geometric restrictions.

2. For transit projects, program-specific criteria are as follows: Bus and rail fleet purchases that are within established FTA spare ratio policies, rehabilitation and replacement of assets that have exceeded the useful life span as identified in FTA policy, and/or the proposed project's rating under the New Starts and Small Starts program criteria, as applicable (a copy of the criteria used for this program is available at *http://www.fta.dot.gov/planning/newstarts/planning_environment_5615.html).*

3. For projects involving port infrastructure investments, program-specific criteria are, for both current state and post-project completion, the port or system's:

(a) Passenger and/or freight throughput, storage or processing capacity, including but not limited to, capacity movement (in tonnage, TEU (twenty-foot equivalent unit), barrels, etc.) across the dock, storage capacity on the terminal, and gate throughput;

(b) Demand for services or demand for capacity (in the case of post-project completion, projections or estimates);

(c) Efficiency (e.g. time savings, including vessel turnaround, gate and dwell times, and/or cost savings);

(d) Reliability and/or resiliency, including but not limited to, ability of the facility or system to recover from natural or man-made disasters and provide necessary services;

(e) National security or National interest aspects of items (a) through (d) above including but not limited to movement of Department of Defense assets and strategic location; and

(f) External factors that may influence or limit items (a) through (e) above (channel or berth maintenance or deepening and other navigation issues, road, rail or waterway factors that could represent bottlenecks and backups, etc.).

4. For TIGER TIFIA Payments, program-specific criteria are the eight statutory selection criteria used by the Department's TIFIA Joint Program Office to evaluate and select projects (these criteria have been assigned weights through regulation, as indicated below):

(a) The extent to which the project is nationally or regionally significant, in

terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system (20 percent);

(b) The extent to which the project helps maintain or protect the environment (20 percent);

(c) The extent to which TIFIA assistance would foster innovative public-private partnerships and attract private debt or equity investment (20 percent);

(d) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment (12.5 percent);

(e) The likelihood that TIFIA assistance would enable the project to proceed at an earlier date than the project would otherwise be able to proceed (12.5 percent);

(f) The extent to which the project uses new technologies, including Intelligent Transportation Systems (ITS), that enhance the efficiency of the project (5 percent);

(g) The amount of budget authority required to fund the Federal credit instrument made available (5 percent); and

(h) The extent to which TIFIA assistance would reduce the contribution of Federal grant assistance to the project (5 percent).

In addition, approval for TIFIA credit assistance requires the receipt of a preliminary rating opinion letter indicating that the project's senior debt obligations have the potential to attain an investment-grade rating. Complete details regarding the TIFIA selection process can be found in the program guide, which can be downloaded from *http://tifia.fhwa.dot.gov/.*

III. Evaluation and Selection Process

A. Ensuring Responsible Spending of Recovery Act Funds

On March 20, 2009, the President of the United States signed a memorandum for the heads of executive departments and agencies on ensuring responsible spending of Recovery Act funds. The memorandum directs the Department to develop transparent, merit-based selection criteria to guide the commitment, obligation and expenditure of TIGER Discretionary Grant funds.

In accordance with the memorandum, the criteria specified in this notice help ensure that TIGER Discretionary Grants will be awarded to projects with a demonstrated or potential ability to: ''(i) Deliver programmatic results; (ii) achieve economic stimulus by optimizing economic activity and the number of jobs created or saved in relation to the Federal dollars obligated; (iii) achieve long-term public benefits by, for example, investing in technological advances in science and health to increase economic efficiency and improve quality of life; investing in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; fostering energy independence; or improving educational quality; and (iv) satisfy the Recovery Act's transparency and accountability objectives.''

In accordance with the memorandum, the Department will not award TIGER Discretionary Grants to any project that is imprudent or does not further the job creation, economic recovery and other purposes of the Recovery Act.

B. Evaluation Process

The Department will establish an evaluation team to review each application that is received by the Department prior to the Application Deadline. The evaluation team will be organized and led by the Office of the Secretary and will include members from each of the Cognizant Modal Administrations (as defined below). These representatives will include technical and professional staff with relevant experience and/or expertise. The evaluation team will be responsible for evaluating and rating all of the projects and making funding recommendations to the Secretary. The evaluation process will require team members to evaluate and rate applications individually before convening with other members to discuss ratings. The composition of the evaluation team will be finalized after the Application Deadline, based on the number and nature of applications received.

The Department will not assign specific numerical scores to projects based on the selection criteria outlined above in Section II(A) (*Selection Criteria*). Rather, ratings of ''highly recommended,'' ''recommended,'' or ''not recommended'' will be assigned to projects for each of the selection criteria. The Department will award TIGER Discretionary Grants to projects that are ''highly recommended'' in one or more of the selection criteria, with projects that are ''highly recommended'' in multiple selection criteria being more likely to receive TIGER Discretionary Grants. To the extent the initial evaluation process does not sufficiently differentiate among highly rated projects, the Department will use a similar three-tiered rating process to re-assess the projects that were highly rated and identify those that should be most highly rated.

The Department will give more weight to the two Primary Selection Criteria (*Long-Term Outcomes* and *Jobs Creation & Economic Stimulus*) than to the two Secondary Selection Criteria (*Innovation* and *Partnership*). Projects that are unable to demonstrate a likelihood of significant long-term benefits in any of the five long-term outcomes identified in Section II(A)(1)(a) (*Long-Term Outcomes*) will not proceed in the evaluation process. A project need not be well aligned with each of the long-term outcomes in order to be successful in the long-term outcomes criterion overall. However, to be successful in the long-term outcomes criterion a project must be ''highly recommended'' for at least one of the long-term outcomes or ''recommended'' for multiple long-term outcomes. Projects that are strongly aligned with multiple long-term outcomes will be the most successful in this criterion.

For the Jobs Creation & Economic Stimulus criterion, projects need not receive a rating of ''highly recommended'' in order to be recommended for funding, although a project that is not ready to proceed quickly, as evidenced by the items requested in Section II(B)(1)(b)(i)–(vi) (*Project Schedule, Environmental Approvals, Legislative Approvals, State and Local Planning, Technical Feasibility,* and *Financial Feasibility*), is less likely to be successful in this criterion.

The Department will give less weight to the two Secondary Selection Criteria (*Innovation* and *Partnership*) than to the two Primary Selection Criteria (*Long-Term Outcomes* and *Jobs Creation & Economic Stimulus*). The two Secondary Selection Criteria will be rated equally.

As noted above in Section II(C) (*Program-Specific Criteria*), the Program-Specific Criteria will not be given ratings and will only be used to the extent the Department needs to differentiate and assign priority among similar projects that have similar ratings based on the selection criteria outlined above in Section II(A) (*Selection Criteria*).

The following table summarizes the weighting of the selection criteria, as described in the preceding paragraphs:

Long-Term Outcomes	The Department will give more weight to this criterion than to either of the Secondary Selection Criteria. In addition, this criterion has a minimum threshold requirement. Projects that are unable to demonstrate a likelihood of significant long-term benefits in any of the five long-term outcomes identified in this criterion will not proceed in the evaluation process.
Jobs Creation & Economic Stimulus	The Department will give more weight to this criterion than to either of the Secondary Selection Criteria. This criterion will be considered after it is determined that a project demonstrates a likelihood of significant long-term benefits in at least one of the five long-term outcomes identified in the long-term outcomes criterion.
Innovation & Partnership	The Department will give less weight to these criteria than to the Primary Selection Criteria.
Project-Specific Criteria	The Department will only give weight to these criteria to the extent the Department needs to differentiate multiple similar projects that are rated similarly based on the Primary and Secondary Selection Criteria.

To be selected for a TIGER Discretionary Grant, a project must be an Eligible Project and the applicant must be an Eligible Applicant. The Department may consider one or more components of a large project to be an Eligible Project, but only to the extent that the components themselves, not the project of which they are a part, are Eligible Projects and satisfy the selection criteria specified in this notice. For these projects, the benefits described in an application must be related to the components of the project for which funding is requested, not the full project of which they are a part.

C. Distribution of Funds

As noted above in Section I (*Background*), the Recovery Act prohibits the award of more than 20 percent of the funds made available under this program to projects in any one State. The Recovery Act also requires that the Department take measures to ensure an equitable geographic distribution of funds and an appropriate balance in addressing the needs of urban and rural communities. The Department will apply an initial unconstrained competitive rating process based on the selection criteria and program-specific criteria identified above in Section II(A) (*Selection Criteria*) and Section II(C) (*Program-Specific Criteria*) to determine a preliminary list of projects recommended for TIGER Discretionary Grants. The Department will then analyze the preliminary list and determine whether the purely competitive ratings are consistent with distributional requirements of the Recovery Act. If necessary, the Department will adjust the list of recommended projects to satisfy the statutory distributional requirements while remaining as consistent as possible with the competitive ratings.

As noted above in Section II(B)(2)(b)(i) (*Jurisdictional & Stakeholder Collaboration*), applications submitted jointly by multiple States should include an allocation of project costs to assist the Department in making these determinations. In addition, the Department will use the subsidy and administrative cost estimate, not the principal amount of credit assistance, to determine any TIGER TIFIA Payment's effect on these distributional requirements.

D. Transparency of Process

In the interest of transparency, the Department will disclose as much of the information related to its evaluation process as is practical. The Department expects that the TIGER Discretionary Grants program may be reviewed and/or audited by Congress, the U.S. Government Accountability Office, the Department's Inspector General, or others, and has and will continue to take steps to document its decision making process.

IV. Grant Administration

The Department expects that each TIGER Discretionary Grant will be administered by the modal administration in the Department with the most experience and/or expertise in the relevant project area (the ''Cognizant Modal Administration''), pursuant to a grant agreement between the TIGER Discretionary Grant recipient and the Cognizant Modal Administration. In accordance with the Recovery Act, the Secretary has the discretion to delegate such responsibilities.

Applicable Federal laws, rules and regulations will apply to projects that receive TIGER Discretionary Grants, including all of the requirements included in the Recovery Act.

As noted above in Section II(B)(1)(b) (*Jobs Creation & Economic Stimulus*), how soon after award a project is expected to expend Grant Funds and start construction will be considered on a case-by-case basis and will be specified in the project-specific grant agreements. The Department reserves the right to revoke any award of TIGER Discretionary Grant funds and to award such funds to another project to the extent that such funds are not timely expended and/or construction does not begin in accordance with the project schedule. The Department's ability to obligate funds for TIGER Discretionary Grants expires on September 30, 2011.

V. Waiver of Minimum Grant Size Requirement

The Department has discretion under the Recovery Act to waive the $20 million minimum grant size requirement for Smaller Projects. Applicants for TIGER Discretionary Grants of less than $20 million for Smaller Projects are encouraged to apply and should address the same criteria as applicants for TIGER Discretionary Grants in excess of $20 million. The term ''grant'' in this provision of the Recovery Act does not include TIGER TIFIA Payments.

VI. TIGER TIFIA Payments

Up to $200 million of the $1.5 billion available for TIGER Discretionary Grants may be used for TIGER TIFIA Payments. Given the average subsidy cost of the existing TIFIA portfolio, $200 million in TIGER TIFIA Payments could support approximately $2 billion in Federal credit assistance. Applicants seeking TIGER TIFIA Payments should apply in accordance with all of the criteria and guidance specified in this notice for TIGER Discretionary Grant applicants and will be evaluated concurrently with all other applications. Any applicant seeking a TIGER TIFIA Payment is required to comply with all of the TIFIA program's standard application and approval requirements, including submission of a Letter of Interest prior to submission of a TIFIA application (the TIFIA program guide can be downloaded from *http://tifia.fhwa.dot.gov/).* The Letter of Interest must be submitted at least six weeks prior to the Application Deadline.

The Department does not expect applicants for TIGER TIFIA Payments to have received an instrument from TIFIA obligating Federal credit assistance for the project before the application is submitted; however, applicants should demonstrate that they are ready to proceed rapidly upon receipt of a TIGER

TIFIA Payment in accordance with the guidance specified above in Section II(B)(1)(b) (*Job Creation & Economic Stimulus*). The Department's TIFIA Joint Program Office will assist the Department in determining a project's readiness to proceed rapidly upon receipt of a TIGER TIFIA Payment.

Applicants seeking TIGER TIFIA Payments may also apply for a TIGER Discretionary Grant for the same project and must indicate the type(s) of funding for which they are applying clearly on the face of their applications. An applicant for a TIGER TIFIA Payment must submit an application pursuant to this notice for a TIGER TIFIA Payment even if it does not wish to apply for a TIGER Discretionary Grant.

Unless otherwise expressly noted herein, any and all requirements that apply to TIGER Discretionary Grants pursuant to the Recovery Act, this notice, or otherwise, including all reporting and Recovery Act related requirements, apply to TIGER TIFIA Payments. TIFIA applicants that do not receive TIGER TIFIA Payments will not be required to comply with any of these requirements.

VII. Contents of Application

An applicant for a TIGER Discretionary Grant should include all of the information requested below in its application. The Department reserves the right to ask any applicant to supplement the data in its application, but expects applications to be complete upon submission. To the extent practical, the Department encourages applicants to provide data and evidence of project merits in a form that is publicly available or verifiable. For TIGER TIFIA Payments, these requirements apply only to the applications required under this notice; the standard TIFIA loan application requirements, including the standard $30,000.00 application fee, are separately described in the Program Guide and Application Form found at *http://tifia.fhwa.dot.gov/*.

A. Length of Applications

The narrative portion of an application should not exceed 25 pages in length. Documentation supporting the assertions made in the narrative portion may also be provided, but should be limited to relevant information. If possible, Web site links to supporting documentation should be provided rather than copies of these materials. At the applicant's discretion, relevant materials provided previously to a Cognizant Modal Administration (as defined below) in support of a different DOT discretionary program (for example, New Starts or TIFIA) may be referenced and described as unchanged. To the extent referenced, this information need not be resubmitted for the TIGER Discretionary Grant application.

B. Contact Information

An application should include the name, phone number, e-mail address and organization address of the primary point of contact for the applicant. The Department will use this information to inform parties of the Department's decision regarding selection of projects, as well as to contact parties in the event that the Department needs additional information about an application.

C. Project Description

An application should include a detailed description of the proposed project and geospatial data for the project, including a map of the project's location and its connections to existing transportation infrastructure. An application should also include a description of how the project addresses the needs of an urban and/or rural area. An application should clearly describe the transportation challenges that the project aims to address, and how the project will address these challenges. This description should include relevant data such as, for example, passenger or freight volumes, congestion levels, infrastructure condition, or safety experience.

D. Project Parties

An application should include information about the grant recipient and other project parties.

E. Grant Funds and Sources and Uses of Project Funds

An application should include information about the amount of grant funding requested, sources and uses of all project funds, total project costs, percentage of project costs that would be paid for with TIGER Discretionary Grant funds, and the identity and percentage shares of all parties providing funds for the project (including Federal funds provided under other programs).

F. Selection Criteria

An application must include information required for the Department to assess each of the criteria specified in Section II(A) (*Selection Criteria*), as such criteria are explained in Section II(B) (*Additional Guidance on Selection Criteria*), and each of the relevant criteria specified in Section II(C) (*Program-Specific Criteria*). Applicants are encouraged to demonstrate the responsiveness of a project to any and all of the selection criteria with the most relevant information that applicants can provide, regardless of whether such information has been specifically requested, or identified, in this notice. Any such information shall be considered part of the application, not supplemental, for purposes of the application size limits identified above in item A (*Length of Applications*). If an applicant is unsure whether any of the program-specific criteria apply to its project and should be addressed in its application the applicant should contact the Department pursuant to the procedures specified below in Section X (*Questions and Clarifications*). Information provided pursuant to this paragraph must be quantified, to the extent possible, to describe the project's impacts on the Nation, a metropolitan area, or a region. Information provided pursuant to this paragraph should include projections for both the build and no-build scenarios for the project for a point in time at least 20 years beyond the project's completion date or the lifespan of the project, whichever is closest to the present.

G. Federal Wage Rate Requirement

An application must include a certification, signed by the applicant, stating that it will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code (Federal wage rate requirements), as required by the Recovery Act.

H. National Environmental Policy Act Requirement

An application must detail whether the project will significantly impact the natural, social and/or economic environment. If the NEPA process is completed, an applicant must indicate the date of, and provide a Web site link or other reference to, the final Categorical Exclusion, Finding of No Significant Impact or Record of Decision. If the NEPA process is underway but not complete, the application must detail where the project is in the process, indicate the anticipated date of completion and provide a Web site link or other reference to copies of any NEPA documents prepared.

I. Environmentally Related Federal, State and Local Actions

An application must indicate whether the proposed project is likely to require actions by other agencies (e.g., permits), indicate the status of such actions and provide a Web site link or other reference to materials submitted to the other agencies, and/or demonstrate

compliance with other Federal, State and local regulations as applicable, including, but not limited to, Section 4(f) *Parklands, Recreation Areas, Refuges, & Historic Properties*; Section 106 *Historic and Culturally Significant Properties*; Clean Water Act *Wetlands and Water; Executive Orders Wetlands, Floodplains, Environmental Justice*; Clean Air Act *Air Quality (specifically note if the project is located in a nonattainment area);* Endangered Species Act *Threatened and Endangered Biological Resources*; Magnuson-Stevens Fishery Conservation and Management Act *Essential Fish Habitat*; The Bald and Golden Eagle Protection Act; and/or any State and local requirements.

J. Protection of Confidential Business Information

All information submitted as part of or in support of an application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI);'' (2) mark each affected page ''CBI;'' and (3) highlight or otherwise denote the CBI portions. The Department protects such information from disclosure to the extent allowed under applicable law. In the event the Department receives a Freedom of Information Act (FOIA) request for the information, the Department will follow the procedures described in its FOIA regulations at 49 CFR § 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

VIII. Project Benefits

The Department expects to identify and report on the benefits of the projects that it funds with TIGER Discretionary Grants. To this end, the Department may request that recipients of TIGER Discretionary Grants cooperate in Departmental efforts to collect and report on information related to the benefits produced by the projects that receive TIGER Discretionary Grants.

In addition to the creation and preservation of jobs and other benefits that the Department is required to track and report pursuant to the Recovery Act, the benefits that the Department reports on may include the following: (1) Improved condition of existing transportation facilities and systems; (2) long-term growth in employment, production or other high-value economic activity; (3) improved livability of communities across the United States; (4) improved energy efficiency, reduced dependence on oil and reduced greenhouse gas emissions; (5) reduced adverse impacts of transportation on the natural environment; (6) reduced number, rate and consequences of surface transportation-related crashes, injuries and fatalities; (7) greater use of innovative technology and innovative approaches to transportation funding and project delivery; (8) greater collaboration with state and local governments, other public entities, private entities, nonprofit entities, or other non-traditional partners; or (9) greater integration of transportation decisionmaking with decisionmaking by other public agencies with similar public service objectives.

Because of the limited nature of this program, these benefits are likely to be reported on a project-by-project basis and trends across projects that were selected for TIGER Discretionary Grants may not be readily available. In addition, because many of these benefits are long-term outcomes, it may be years before the value of the investments can be quantified and fully reported. The Department is considering the most appropriate way to collect and report information about these potential project benefits.

IX. Reporting Requirements

A. Section 1201(c): Maintenance of Effort: Reporting Requirements

Pursuant to the Recovery Act, entities receiving TIGER Discretionary Grants will be required to report on grant activities on a routine basis. Section 1201(c) of the Recovery Act (*Maintenance of Effort: Reporting Requirements*), under General Provision—Department of Transportation—imposes an obligation on entities receiving TIGER Discretionary Grants, along with other Department grantees receiving funds from the Department's Covered Programs, to submit periodic reports to the agency from which funds were received. Section 1201(c)(2) requires that such reports include, for each Covered Program (which includes the TIGER Discretionary Grant program) the following information: the amount of Grant Funds appropriated, allocated, obligated, and outlayed under the appropriation; the number of projects put out to bid under the appropriation and the amount of Grant Funds associated with these contracts; the number of projects for which contracts have been awarded under the appropriation and the amount of Grant Funds associated with these contracts; the number of projects for which work has begun under these contracts and the associated amount of Grant Funds; the number of projects for which work has been completed and the associated amount of Grant Funds; the number of direct, on-project jobs created or sustained by the Grant Funds for projects under the appropriation and, to the extent possible, the estimated indirect jobs created or sustained in associated supplying industries, including the number of job-years created and total increase in employment since February 17, 2009; and the actual aggregate expenditures by each recipient from State sources for projects eligible for funding under the program between February 17, 2009, and September 30, 2010, compared to the level of such expenditures planned to occur during this period as of February 17, 2009.

According to the statute, grant recipients must submit the first of these reports not later than 90 days from February 17, 2009, and must submit updated reports not later than 180 days, 1 year, 2 years, and 3 years after that date. Due to the unique timeframe for TIGER Discretionary Grant awards, TIGER Discretionary Grant recipients should submit the first of such reports on the first due date following the award of Grant Funds and on each subsequent due date thereafter.

B. Section 1512: Reports on Use of Funds

Section 1512 of the Recovery Act (*Reports on Use of Funds*) requires any entity that received TIGER Discretionary Grants to submit a report not later than 10 days after the end of each calendar quarter as a condition of receiving funding under the Recovery Act. Pursuant to the OMB Guidance (which is available at *http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf*), recipients must report to OMB beginning 10 days after the end of the first calendar quarter after funds are awarded. Recipients should refer to the OMB Guidance for more detailed instructions on such reports. OMB is currently developing a government-wide central reporting system. Detailed instructions for centrally reporting the required information will be made available at *www.FederalReporting.gov.*

C. Section 1609: Environmental Reporting

Section 1609(c) of the Recovery Act requires that Federal agencies report via the President (specifically, to the White House Council on Environmental Quality) every 90 days following enactment of the Recovery Act on the status of projects funded under the Recovery Act with respect to compliance with the National Environmental Policy Act.

To satisfy the purposes of the Recovery Act, grant recipients may be required to provide additional information in response to requests from OMB, the Congressional Budget Office, the Government Accountability Office, or the Department's Inspector General. The Department will inform grant recipients if and when such additional reports are required.

Further information about how grant recipients will be expected to comply with the reporting requirements of the Recovery Act will be provided in the individual grant agreements signed by recipients of TIGER Discretionary Grants.

X. Certification Requirements

As a condition of award, to the extent applicable, grantees must comply with the Certification requirements of the Recovery Act. These include Section 1201 (*Maintenance of Effort*); Section 1511 (*Transparency and Oversight*); and Section 1607 (*Additional Funding Distribution and Assurance of Appropriate Use of Funds*). On February 27, 2009, Secretary of Transportation Ray LaHood sent a letter to the Governors of each State providing guidance and a template for the Certifications required by the Recovery Act, a copy of which is available on the Department's Recovery Act Web site, at *http://www.dot.gov/recovery/*. All applicable Certifications must be submitted to the Department at *TigerTeam.Leads@dot.gov*. Certifications may be submitted via e-mail as electronic, scanned copies, with original signed versions to follow via U.S. mail.

A. Section 1201(a): Maintenance of Effort

By March 19, 2009, State Governors were required to certify to the Secretary of Transportation that the State would maintain its effort with regard to State funding for the types of projects funded by the appropriation, for each amount distributed to a State or a State agency under this program. As part of this Certification, the Governor was required to submit to the Secretary a statement identifying the amount of funds the State planned to expend from State sources as of February 17, 2009, during the period between February 17, 2009 and September 30, 2010, for the types of projects funded by the appropriation. The maintenance of effort requirement in section 1201(a) applies to any TIGER Discretionary Grant recipient that is a State government (or agency thereof) that planned, as of February 17, 2009, to expend State funds on the project receiving a TIGER Discretionary Grant during the period between February 17, 2009, and September 30, 2010.

B. Section 1511: Transparency and Oversight

For Grant Funds made available to State or local governments for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, must certify that the infrastructure investment (1) received the full review and vetting required by law; and (2) that the chief executive accepts responsibility that it is an appropriate use of taxpayer dollars. This Certification must be executed and posted on a Web site and linked to Recovery.gov prior to the recipient of a TIGER Discretionary Grant receiving Grant Funds. If the potential project is a highway or transit project and it is included in the Statewide Transportation Improvement Program (STIP) with the specific information required by Section 1511 (a description of the investment, the estimated total cost, and the amount of ARRA funds to be used), it may be included in the Governor's Section 1511 Certification covering highway and transit projects in a State. One way for the Governor's Certification to satisfy the Section 1511 requirement is for the Certification to state that the project is included in the STIP and therefore has completed the TIP/STIP planning process. In this case, the Governor's Certification must also provide a link to the public web posting of the STIP that includes (or will include) any highway and transit project designated to receive Recovery Act funding. If the project is not included in the STIP, a separate Certification for the potential TIGER Discretionary Grant project must be executed, attaching the relevant information or linking to a public Web site where the information may be obtained. This Certification must include a description of the investment, the estimated total cost, and the amount of covered funds to be used, and must be posted online and linked to the Web site Recovery.gov. The Certification must also state that the projects have been properly reviewed and vetted and are an appropriate use of taxpayer dollars.

C. Section 1607: Additional Funding Distribution and Assurance of Appropriate Use of Funds

Section 1607 required that Governors of States receiving funding under the Recovery Act certify by April 3, 2009, that, for Grant Funds provided to any State or State agency, the State would request and use the funds provided in the Recovery Act and that such funds would be used to create jobs and promote economic growth. Alternatively, the State legislature could have acted to accept such funds by the adoption of a concurrent resolution. States or State agencies ultimately receiving TIGER Discretionary Grant funds must ensure that this Certification has been completed.

D. Submission of Certifications Under Sections 1201, 1511, and 1607

All Certifications, once executed, shall be submitted to the Secretary of Transportation, c/o Joel Szabat, Deputy Assistant Secretary for Transportation Policy, at *TigerTeam.Leads@dot.gov*. Certifications may be submitted via e-mail as electronic, scanned copies, with original signed versions to follow via U.S. mail. As required by the Recovery Act, Certifications under Section 1511 shall be immediately posted on a Web site and linked to the Web site Recovery.gov.

XI. Questions and Clarifications

Questions about this notice should be submitted to the TIGER Discretionary Grants program manager via e-mail at *TIGERGrants@dot.gov*. The Department will regularly post answers to these questions and other important clarifications on the Department's Web site at *http://www.dot.gov/recovery/ost/*.

Issued on: May 12, 2009.

Ray LaHood,

Secretary.

[FR Doc. E9–11542 Filed 5–15–09; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–17950]

Mayflower Transit, LCC—Pooling Agreement

AGENCY: Surface Transportation Board.

ACTION: Request for comments.

SUMMARY: Mayflower Transit, LLC (Mayflower), on behalf of itself and certain affiliated companies, filed an

application with the Board under 49 U.S.C. 14302 for approval of revisions to its pooling agreement. The Board establishes a procedural schedule for the submission of public comments on the proposed revisions, principally the requirement that carrier agents may not transport under their own motor carrier authority any interstate shipments of household goods except, subject to Mayflower policies, shipments for the government. After reviewing any comments received, the Board will determine whether it has sufficient information to decide whether the proposed revisions meet the standard for approval under section 14302 or whether a hearing is necessary prior to such a determination.

DATES: Comments on the proposed revisions to Mayflower's pooling agreement shall be filed by July 2, 2009. Mayflower may file a response to any comments by July 17, 2009.

ADDRESSES: An original and 10 copies of all pleadings, referring to STB Docket No. MC–F–17950, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of all pleadings must be served on Mayflower's representative, James A. Calderwood, Zuckert, Scoutt & Rasenberger L.L.P., 888 Seventeenth Street, NW., Washington, DC 20006–3309.

FOR FURTHER INFORMATION CONTACT: Julia Farr, (202) 245–0359. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, available on our Web site at *http://www.stb.dot.gov.*

Decided: May 12, 2009.

By the Board, Acting Chairman Mulvey, and Vice Chairman Nottingham.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–11535 Filed 5–15–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket Nos. MC–F–4901 and MC–F–6152]

United Van Lines, LCC—Pooling Agreement

AGENCY: Surface Transportation Board.

ACTION: Request for comments.

SUMMARY: United Van Lines, LLC (United), on behalf of itself and certain affiliated companies, filed an application with the Board under 49 U.S.C. 14302 for approval of revisions to its pooling agreement. The Board establishes a procedural schedule for the submission of public comments on the proposed revisions, principally the requirement that carrier agents may not transport under their own motor carrier authority any interstate shipments of household goods except, subject to United policies, shipments for the government. After reviewing any comments received, the Board will determine whether it has sufficient information to decide whether the proposed revisions meet the standard for approval under section 14302 or whether a hearing is necessary prior to such a determination.

DATES: Comments on the proposed revisions to United's pooling agreement shall be filed by July 2, 2009. United may file a response to any comments by July 17, 2009.

ADDRESSES: An original and 10 copies of all pleadings, referring to STB Docket Nos. MC–F–4901 and MC–F–6152, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of all pleadings must be served on United's representative, James A. Calderwood, Zuckert, Scoutt & Rasenberger L.L.P., 888 Seventeenth Street, NW., Washington, DC 20006–3309.

FOR FURTHER INFORMATION CONTACT: Julia Farr, (202) 245–0359. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, available on our Web site at *http://www.stb.dot.gov.*

Decided: May 12, 2009.

By the Board, Acting Chairman Mulvey, and Vice Chairman Nottingham.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–11536 Filed 5–15–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–05

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–05, Waiver for Reasonable Cause for Failure to Report Loan Origination Fees and Capitalized Interest.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202)622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Waiver for Reasonable Cause for Failure to Report Loan Origination Fees and Capitalized Interest.

Notice Number: 1545–1996.

Abstract: This Notice provides information to payees who receive payment of interest on qualified education loans who are unable to comply with the information reporting requirements under section 6050S of the Internal Revenue Code.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other-for-profit organizations, Federal Government.

Estimated Total Annual Recordkeeping and Reporting Burden: 500.

Estimated Annual Recordkeeping and Reporting Burden per Respondent: 10 hours.

Estimated Number of Respondents: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long

as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 27, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11442 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5495

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5495, Request for Discharge From Personal Liability Under Internal Revenue Code Section 2204 or 6905.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Request for Discharge From Personal Liability Under Internal Revenue Code Section 2204 or 6905.

OMB Number: 1545–0432.

Form Number: Form 5495.

Abstract: Form 5495 provides guidance under sections 2204 and 6905 for executors of estates and fiduciaries of decedent's trusts. The form, filed after regular filing of an Estate, Gift, or Income tax return for a decedent, is used by the executor or fiduciary to request discharge from personal liability for any deficiency for the tax and periods shown on the form.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 25,000.

Estimated Time per Respondent: 12 hours 16 minutes.

Estimated Total Annual Burden Hours: 306,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 28, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11444 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–130477–00, REG–130481–00]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–130477–00; REG–130481–00 (TD 8987), Required Distributions from Retirement Plans (§ 1.403(b)–3).

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Carolyn N. Brown at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Required Distributions from Retirement Plans.

OMB Number: 1545–0996.

Regulation Project Number: REG–130477–00; REG–130481–00.

Abstract: These regulations relates to the required minimum distributions from qualified plans, individual retirement plans, deferred compensation plans under section 457, and section 403(b) annuity contracts, custodial accounts, and retirement income accounts.

Current Actions: There are no changes to these existing regulations.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit institutions, and state, local, or tribal governments.

Estimated Number of Respondents: 8,400.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 8,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 7, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11445 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8934

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8934, Application for Approval of a Mechanical Dye Injection System.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Approval of a Mechanical Dye Injection System.

OMB Number: 1545–2136.

Form Number: 8934.

Abstract: New Proposed Treasury Regulations outline specific requirements that facilities have to meet when they have mechanical dye injections systems. The Regulations are Section 48.4082–1. The safety standards require automatic shut-off devices, safety seals, and other measures to see that the dye is injected properly in a safe environment. It is new tax law that requires producing this new tax form to allow effected facilities to apply for the tax exemption.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time per Respondent: 7 hours, 40 minutes.

Estimated Total Annual Burden Hours: 383.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 28, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11447 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 14039 and 14039–SP

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this

opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 14039, Identity Theft Affidavit, and Form 14039–SP, Declaración Jurada sobre el Robo de Identidad.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Identity Theft Affidavit, and Declaración Jurada sobre el Robo de Identidad.

OMB Number: 1545–2139.

Form Number: Form 14039 and Form 14039–SP.

Abstract: The primary purpose of these forms is to provide a method of reporting identity theft issues to the IRS so that the IRS may document situations where individuals are or may be victims of identity theft. Additional purposes include the use in the determination of proper tax liability and to relieve taxpayer burden. The information may be disclosed only as provided by 26 U.S.C. 6103.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 25,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 29, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11449 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5754

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5754, Statement by Person(s) Receiving Gambling Winnings.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the Internet at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Statement by Person(s) Receiving Gambling Winnings.

OMB Number: 1545–0239.

Form Number: 5754.

Abstract: Section 3402(q)(6) of the Internal Revenue Code requires that a statement be given to the payer of certain gambling winnings by the person receiving the winnings when that person is not the winner or is one of a group of winners. It enables the payer to prepare Form W–2G, Certain Gambling Winnings, for each winner to show the winnings taxable to each and the amount withheld. IRS uses the information on Form W–2G to ensure that recipients are properly reporting their income.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions.

Estimated Number of Responses: 204,000.

Estimated Time per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 40,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 6, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11451 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8804–W

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8804–W, Installment Payments of Section 1446 Tax for Partnerships.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Installment Payments of Section 1446 Tax for Partnerships.

OMB Number: 1545–1991.

Form Number: Form 8804–W.

Abstract: Regulations for section 1446 require a worksheet for installment payments of section 1446 tax. Partnerships generally must make installment payments of estimated section 1446 tax if they expect the aggregate tax on the effectively connected taxable income (ECTI) that is allocable to all foreign partners to be $500 or more.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 59 hours 35 minutes.

Estimated Total Annual Burden Hours: 29,795.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 28, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11450 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4255

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4255, Recapture of Investment Credit.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Recapture of Investment Credit.

OMB Number: 1545–0166.

Form Number: 4255.

Abstract: Internal Revenue Code section 50(a) requires that a taxpayer's income tax be increased by the investment credit recapture tax if the taxpayer disposes of investment credit property before the close of the recapture period used in figuring the original investment credit. Form 4255 provides for the computation of the recapture tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and farms.

Estimated Number of Respondents: 13,200.

Estimated Time Per Respondent: 9 hrs. 49 min.

Estimated Total Annual Burden Hours: 129,492.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 1, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11455 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4506–A, Request for Public Inspection or Copy of Exempt Organization Tax Form.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Carolyn.N.Brown@irs.go*.

SUPPLEMENTARY INFORMATION:

Title: Request for Public Inspection or Copy of Exempt Organization IRS Form.

OMB Number: 1545–0495.

Form Number: 4506–A.

Abstract: Internal Revenue Code section 6104 states that if an organization described in section 501(c) or (d) is exempt from taxation under section 501(a) for any taxable year, the application for exemption is open for public inspection. This includes all supporting documents, any letter or other documents issued by the IRS concerning the application, and certain annual returns of the organization. Form 4506–A is used to request public inspection or a copy of these documents.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit organizations, Not-for-profit institutions, Farms, and Federal, State, local or tribal governments.

Estimated Number of Responses: 20,000.

Estimated Time Per Response: 1 hour.

Estimated Total Annual Burden Hours: 20,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 6, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11456 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5213

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5213, Election To Postpone Determination as To Whether the Presumption Applies That an Activity Is Engaged in for Profit.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the form and instructions should be directed to Carolyn N. Brown, at (202) 622–6688, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Election To Postpone Determination as To Whether the Presumption Applies That an Activity Is Engaged in for Profit.

OMB Number: 1545–0195.

Form Number: 5213.

Abstract: Section 183 of the Internal Revenue Code allows taxpayers to elect to postpone a determination as to whether an activity is entered into for profit or is in the nature of a nondeductible hobby. The election is made on Form 5213 and allows taxpayers 5 years (7 years for breeding, training, showing, or racing horses) to show a profit from an activity.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 3,541.

Estimated Time Per Respondent: 47 minutes.

Estimated Total Annual Burden Hours: 2,762.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 1, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11454 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–63–88; IA–140–86; REG–209785–95]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing regulations, EE–63–88 (Final and temporary regulations) Taxation of Fringe Benefits and Exclusions From Gross Income for Certain Fringe Benefits; *IA–140–86* (Temporary) Fringe Benefits; Listed Property; and *REG–209785–95* (Final) Substantiation of Business Expenses (1.61–2, 1.132–5, and 1.274–5).

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulation should be directed to Carolyn N. Brown, (202) 622–6688, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Carolyn.N.Brown@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: EE–63–88 (Final and temporary regulations) Taxation of Fringe Benefits and Exclusions From Gross Income for Certain Fringe Benefits; *IA–140–86* (Temporary) Fringe Benefits; Listed Property; and *REG–209785–95* (Final) Substantiation of Business Expenses.

OMB Number: 1545–0771.

Regulation Project Number: EE–63–88; IA–140–86; and REG–209785–95.

Abstract: EE–63–88—This regulation provides guidance on the tax treatment of taxable and nontaxable fringe benefits and general and specific rules for the valuation of taxable fringe benefits in accordance with Code sections 61 and 132. The regulation also provides guidance on exclusions from gross income for certain fringe benefits. *IA–140–86*—This regulation provides guidance relating to the requirement that any deduction or credit with respect to business travel, entertainment, and gift expenses be substantiated with adequate records in accordance with Code section 274(d). The regulation also provides guidance on the taxation of fringe benefits and clarifies the types of records that are generally necessary to substantiate any deduction or credit for listed property. *REG–209785–95*—This regulation provides that taxpayers who deduct, or reimburse employees for, business expenses for travel, entertainment, gifts, or listed property are required to maintain certain records, including receipts, for expenses of $75 or more.

Current Actions: There are no changes to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profits institutions, farms and Federal, State, local or tribal governments.

Estimated Number of Respondents: 28,582,150.

Estimated Time per Respondent: 1 hr., 20 min.

Estimated Total Annual Burden Hours: 37,922,688.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record.

Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 7, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11448 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2009–41

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2009–41, Credit for Residential Energy Efficient Property.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Residential Energy Efficient Property.

OMB Number: 1545–2134.

Form Number: Notice 2009–41.

Abstract: This notice sets forth interim guidance, pending the issuance of regulations, relating to the credit for residential energy efficient property under 25D of the Internal Revenue Code. Specifically, this notice provides procedures that manufacturers may follow to certify property as a qualified residential energy efficient property, as well as guidance regarding the conditions under which taxpayers seeking to claim the 25D credit may rely on a manufacturer's certification. The Internal Revenue Service (Service) and the Treasury Department expect that the regulations will incorporate the rules set forth in this notice.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, Businesses and other for-profit organizations.

Estimated Number of Respondents: 140.

Estimated Time Per Respondent: 2 Hours, 30 minutes.

Estimated Total Annual Burden Hours: 350.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 27, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11446 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–47

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–47, Elections Created of Effected by the American Jobs Creation Act of 2004.

DATES: Written comments should be received on or before July 17, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Elections Created or Effected by the American Jobs Creation Act of 2004.

OMB Number: 1545–1986.

Notice Number: Notice 2006–47.

Abstract: The American Jobs Creation Act of 2004, Public Law No. 108–357, 118 Stat. 1418 (the Act), created various elections and permits taxpayers to

revoke certain elections that are currently in effect in light of changes made by the Act. The collection of information is necessary to inform the Internal Revenue Service that an election is being made or revoked. This notice will enable the Internal Revenue Service to ensure that the eligibility requirements for the various elections or revocations have been satisfied; verify that the requisite computations, allocations, etc. have been made correctly; and appropriately monitor whether any required collateral actions relating to the elections or revocations have been complied with.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 150,000.

Estimated Average Time per Respondent: 5 min.

Estimated Total Annual Burden Hours: 12,765.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 27, 2009.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E9–11443 Filed 5–15–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0090]

Proposed Information Collection (Application for Voluntary Service); Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine an applicant's suitability and placement as a potential volunteer at VA.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 17, 2009.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*; or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov*. Please refer to ''OMB Control No. 2900–0090'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Mary Stout at (202) 461–5867 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Voluntary Service, VA Form 10–7055.

OMB Control Number: 2900–0090.

Type of Review: Extension of a currently approved collection.

Abstract: Individuals expressing interest in volunteering at a VA medical center complete VA Form 10–7055 to request placement in the nationwide VA Voluntary Service Program. VA will use the data collected to place applicants in assignments most suitable to their special skills and abilities.

Affected Public: Individuals or Households.

Estimated Total Annual Burden: 8,000 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 32,000.

Dated: May 12, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–11452 Filed 5–15–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0165]

Agency Information Collection (Financial Status Report) Activities Under OMB Review

AGENCY: Office of Management, 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 Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the

nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 17, 2009.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0165'' 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. 2900–0165.''

SUPPLEMENTARY INFORMATION:

Title: Financial Status Report, VA Form 5655.

OMB Control Number: 2900–0165.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Form 5655 to report their financial status. VA uses the data collected to determine the claimant's eligibility for a waiver of collection, setup a payment plan or for the acceptance of a compromise offer on their VA benefit debt.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 12, 2009 at pages 10809–10810.

Affected Public: Individuals or households.

Estimated Annual Burden: 45,553 hours.

Estimated Average Burden per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Number of Respondents: 45,553.

Dated: May 12, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–11453 Filed 5–15–09; 8:45 am]

BILLING CODE A320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs.

ACTION: Notice of amendment and republication of an existing system of records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their records. The Department of Veterans Affairs (VA) gives notice that it is amending the system of records entitled ''Current and Former Accredited Representative, Claims Agent, Representative and Claims Agent Applicant and Rejected Applicant and Attorney Records—VA'' (01VA022) as set forth in the **Federal Register,** 40 FR 38095, Aug. 26, 1975; and amended in 47 FR 1460, Jan. 13, 1982, 54 FR 30969, Jul. 25, 1989, 59 FR 47377, Sep. 15, 1994, and 67 FR 54529, Aug. 22, 2002. VA is amending the system notice by (1) revising the System Name, System Location, Categories of Individuals Covered by the System, Categories of Records in the System, routine uses 2 and 5, and procedures for storage, retrievability, and safeguards; (2) rescinding routine use 8; and (3) adding a purpose data element and new routine uses 11 through 14. VA is republishing the system in its entirety.

DATES: Comments on the proposed amendments to this system of records must be received no later than June 17, 2009. If no public comments are received by this date, the amendments will become effective on June 17, 2009.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov*; by mail or hand-delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS).

FOR FURTHER INFORMATION CONTACT: Michael Daugherty (022G2), Staff Attorney, Professional Staff Group II, Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7699.

SUPPLEMENTARY INFORMATION:

I. Description of the System of Records

The System of Records ''Current and Former Accredited Representative, Claims Agent, Representative and Claims Agent Applicant and Rejected Applicant and Attorney Records—VA'' (01VA022) contains VA's accreditation records. Accreditation means authorization by VA to assist claimants with the preparation, presentation, and prosecution of claims for veterans benefits. 38 CFR 14.627(a). VA accredits claims agents, attorneys, and representatives of recognized veterans service organizations to ensure that claimants for benefits have responsible, qualified representation before the Department. 38 CFR 14.626.

Before granting accreditation, VA's Office of the General Counsel (OGC) verifies the training, qualifications, and character and fitness of prospective agents, attorneys, and representatives of veterans service organizations through an application process. 38 CFR 14.629. After accreditation, OGC monitors the conduct of individuals providing representation through communications with the individuals providing representation, claimants for benefits, and other VA offices. When appropriate, OGC initiates proceedings to suspend or cancel accreditation. 38 CFR 14.633.

Statute and regulation provide a one-time exception to the requirement for formal VA accreditation in that an individual may provide representation on a particular claim before VA. 38 U.S.C. 5903; 38 CFR 14.630. Although VA does not ''accredit'' such individuals based on a review of their personal qualifications, individuals providing representation under this provision must comply with the same standards of conduct for representation before VA as apply to claims agents and attorneys. 38 U.S.C. 5903(b). VA may suspend or cancel this authorization under the provisions of 38 CFR 14.633.

VA last amended System of Records 01VA022 in December 2002. Since then, Congress has amended chapter 59 of title 38, United States Code, governing the accreditation of individuals for the preparation, presentation, and prosecution of claims for benefits before VA. *See* The Veterans Benefits, Health Care, and Information Technology Act of 2006, Public Law 109–461, section 101, 120 Stat. 3403 (2006). Several provisions of amended chapter 59 require collection, maintenance, and retrieval of information from new sources. In section 5904(a)(2), Congress directed that VA publish regulations requiring as a condition of accreditation for attorneys and agents, either a specific level of experience or the

completion of specialized training. In section 5904(a)(3), Congress directed VA to prescribe in regulations a requirement that agents and attorneys annually provide VA with status information regarding each jurisdiction in which they are admitted to practice. Section 5904(a)(4) provides that VA may not accredit agents and attorneys suspended or disbarred from practice by any court, bar, or other Federal or State agency.

To implement these and other amendments to chapter 59 and to clarify and reorganize existing regulations, VA recently published regulations prescribing additional accreditation requirements. 73 FR 29852, May 22, 2008. The combined effect of the new statutes and regulations is to significantly expand OGC's accreditation responsibilities. Accordingly, VA proposes to amend System of Records 01VA022 to enable it to collect, manage, and retrieve individually-identifiable personal information pertaining to prospective, current, and former accredited individuals to ensure that claimants for benefits continue to have responsible, qualified representation before VA.

VA is revising the system name to more accurately reflect the purpose for which records within the system are maintained. Congress' recent amendments to chapter 59 and VA's subsequently published implementing regulations have expanded the scope of VA's accreditation program to include attorneys and individuals providing representation under 38 CFR 14.630. Accordingly, VA has revised the name of the system to the broader ''Accreditation Records—VA'' rather than simply adding categories of persons to the system name. Our intent in revising the system name to reflect its purpose is to make it easier for interested persons to identify the system.

In a document published in the **Federal Register** on September 15, 1994 (59 FR 47377), VA described the process by which the Veterans Benefits Administration (VBA) permitted individuals authorized to represent claimants before VA to have remote access to the records of the persons whom they represent. Since that time, VA has updated its information technology (IT) infrastructure, reorganized its IT workforce, and its process for granting remote access. This amendment describes the location of records maintained for purposes of granting remote access to veterans' information. It is important to note that although records relating to the remote access program are included in this system of records, they are not maintained by OGC. The system manager for remote access records in this system is the Director of VBA's Compensation and Pension Service.

Each individual is granted remote access to data within VBA's Benefits Delivery Network (BDN) or Veterans Service Network (VETSNET) Corporate application only after accreditation by the Office of the General Counsel. Accredited individuals seeking remote access must first complete VA's Training, Responsibility, Involvement, and Preparation (TRIP) program training and VA's Information Security Awareness training as a condition of being granted remote access. Following completion of required training, accredited individuals submit a request for local area network (LAN) access and a Common Security User Manager (CSUM) profile to the Facility Information Security Officer (FISO). After the FISO's review and VA Regional Office (VARO) Director's approval, the request goes to the Consultant, Compensation and Pension Interagency Sharing Staff (Consultant) for assignment of a unique code which identifies the accredited individual and limits his or her access to only those claimant records similarly identified. After the code has been created, the Consultant notifies the FISO so that the code can be included in the CSUM profile. After confirmation of code assignment, VA IT administrators or VARO LAN administrators create the appropriate profiles with approved access.

Accredited individuals granted remote access privileges to VBA's BDN or VETSNET data access VA's Wide Area Network through the VA Remote Enterprise Security Compliance Update Environment (RESCUE) Virtual Private Network (VPN) secure connection. From there, the request is routed to the Hines Citrix terminal server which provides access to the VBA applications. To ensure the security of the various systems, the FISOs and VARO IT system administrators monitor daily use of the Common Security Service (CSS) passwords and can request immediate reports for any apparent security violations. Security logs are maintained by the respective VARO FISO. All CSS records for application access are maintained in the Corporate database at the Austin Information Technology Center (AITC) in Austin, Texas. VA maintains remote access credentials on the LAN at each of the 58 VAROs, the Records Management Center, and at VBA's Central Office at 1800 G Street, Washington, DC, depending on the location at which the request for remote access was processed. All security violations and security profiles are maintained on the Corporate database at the AITC.

Changes noted under the Categories of Individuals Covered by the System and Categories of Records in the System headings reflect the addition of certain information on attorneys and individuals to the system of records, clarify the system description, and update the system description for consistency with current form designations.

Paragraphs (1) through (3) under the Categories of Individuals Covered by the System heading are revised to indicate that the system of records includes claims agents, attorneys, representatives of veterans service organizations, and individuals providing representation on a particular claim. Paragraphs (1) through (3) clarify that the system of records covers those persons mentioned above in all stages of the accreditation process beginning with the application and continuing beyond active accreditation. It includes those who have applied for accreditation, are currently accredited, and those who were formerly accredited. It is necessary to include the records of those formerly accredited to prevent VA from mistakenly granting accreditation to persons whose accreditation was suspended, cancelled, or who resigned in order to prevent suspension or cancellation of accreditation.

Paragraph (4) under the Categories of Individuals Covered by the System heading is revised to reflect amendments to chapter 59 and implementing regulations providing that representatives of veterans service organizations and individuals providing representation on a particular claim are subject to suspension or cancellation of accreditation on the same basis as applies to agents and attorneys. 38 U.S.C. 5902–5903. New paragraph (4) reflects records that OGC maintains on agents and attorneys, and additional records that it will maintain under recent regulations.

VA proposes to add a paragraph (5) under the Categories of Individuals Covered by the System heading to reflect the fact that OGC frequently receives communications from veterans, other VA offices, and individuals not accredited by VA inquiring as to whether specific acts require accreditation by VA and whether specific persons are accredited by VA for purposes of representation.

VA is amending three paragraphs under the Categories of Records in the System heading. Paragraph (5) is revised to include information collected for purposes of attorney accreditation.

Paragraph (6) is revised to reflect that VA has new form numbers for the applications for accreditation of service organization representatives, and for claims agents and attorneys to represent veterans before VA. The language of paragraph (7) is revised to cover information regarding individuals authorized to provide representation on a particular claim before VA. Paragraph (8) is revised to include records involved in an inquiry as to the fitness of individuals authorized to represent individuals before VA on a one-time basis. Finally, a new paragraph (12) is added to cover records generated by inquiries to VA as to whether specific acts require accreditation by VA and whether specific persons are accredited by VA for purposes of representation.

VA is revising the authority for maintenance of the system to reflect changes made by Public Law 109–461 by adding references to sections 5901 and 5903 of title 38, United States Code.

A new section describing the purpose of the system of records is added to comply with § 3.12 of the National Archives and Records Administration's Federal Register Document Drafting Handbook. The purpose of this system of records is to enable VA to collect, maintain, and retrieve the individually identifiable information necessary to ensure that claimants for veterans benefits have responsible, qualified representation. 38 CFR 14.626.

II. Proposed Amendments to Routine Use Disclosures of Data in the System

VA is revising routine use 2 to allow for the disclosure of any information in the system of records relating to violations of law to a broad range of appropriate authorities such as the Federal Trade Commission, State insurance regulators, State attorney licensing authorities, and State Attorneys General or other State law enforcement authorities. VA is revising routine use 5 to clarify that the name, address, and phone number of agents, attorneys, and accredited representatives will be disclosed to the public to assist veterans in finding qualified representation. VA is rescinding routine use 8 because the authority for such disclosure is now encompassed within new routine use 2. VA has redesignated routine uses 9 through 11 as routine uses 8 through 10. VA has revised newly redesignated routine use 8 to allow for disclosure to the Department of Justice or other appropriate entities in litigation in defense of the United States. Timely disclosure in such matters assists the United States, plaintiffs, and the courts by not delaying court proceedings for want of records. VA is adding routine use 11 to allow disclosure of information in the system to the National Archives and Records Administration to facilitate the inspection of VA records management systems. VA is adding routine use 12 to allow it to disclose any information in the system to any individual, organization, or agency with whom it has a contract or agreement when such disclosure is necessary for performance of the contract or agreement. VA is adding routine use 13 to allow disclosure of any information in the system to other Federal agencies for the purpose of assisting agencies in detecting fraud and abuse in their programs. VA is adding routine use 14 to allow disclosure to appropriate authorities to enable VA to respond to and mitigate the harm resulting from any breach of the system of records; this routine use is promulgated in order to meet VA's statutory duties under 38 U.S.C. 5724 and the Privacy Act, 5 U.S.C. 552a, as amended.

III. Compatibility of the Proposed Routine Uses

Release of information from these records, pursuant to routine uses, will be made only in accordance with the provisions of the Privacy Act of 1974. The Privacy Act of 1974 permits agencies to disclose information about individuals, without their consent, for a routine use when the information will be used for a purpose for which the information was collected. VA has determined that the disclosure of information for the above purposes in the proposed amendment to routine uses is a proper and necessary use of the information collected by the system ''Accreditation Records—VA.''

The report of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677, December 12, 2000).

Approved: April 30, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

01VA022

SYSTEM NAME:

Accreditation Records—VA.

SYSTEM LOCATION:

Records are maintained in the Office of General Counsel (022), and in the Veterans Benefits Administration (215A), VA Central Office, Washington, DC 20420. Records will also be maintained in Veterans Benefits Administration Regional Offices, Regional Counsel Offices, and the Facility Information Security Offices of the Office of Information & Technology's Field Security Service. Records also will be maintained in the Austin Information Technology Center in Austin, TX. Address locations are listed in VA's ''Facility and Locator Directory'' at *http://www1.va.gov/directory/guide/home.asp*.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Persons who have applied for accreditation by VA, are currently accredited by VA, or were previously accredited by VA to represent claimants as claims agents or attorneys; (2) individuals who have applied for accreditation by VA, are currently accredited by VA, or were previously accredited by VA to provide representation on a particular claim; (3) individuals recommended for VA accreditation by a recognized veterans service organization, currently accredited by VA as a service organization representative or were previously accredited by VA as a service organization representative; (4) claims agents, attorneys, accredited representatives, and individuals providing representation on a particular claim who have been the subject of correspondence, investigations, or proceedings relating to their fitness to represent claimants for benefits before VA; and (5) individuals, acting alone, or as part of organizations, not accredited by VA, who have been the subject of correspondence or investigations as to the legality of their representation of claimants for VA benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) in this system may include: (1) Name and other identifying information; (2) address; (3) service organization affiliations; (4) claims agent examination and grade; (5) correspondence concerning prospective, present, or former claims agents, attorneys, and accredited representatives, including attorney and claims agent recommendations and evaluations from third parties; (6) VA Forms 2–21 (former Application for Accreditation as Service Organization Representative) 21 (Application for Accreditation as Service Organization Representative), and 21a (Application for Accreditation as a Claims Agent or Attorney); (7) correspondence concerning a prospective, present, or former individual providing

representation in a particular claim; (8) investigative reports, correspondence and other information concerning the fitness of a prospective, present, or former claims agent, attorney, accredited representative, or individual providing representation in a particular claim; (9) documents, decisions, correspondence, and other information relating to or including the granting, denial, suspension, or cancellation of accreditation of representatives, claims agents, or attorneys, and information concerning the placement of representatives, claims agents, or attorneys on probation by VA or VA's issuance of a reprimand to such an individual pertaining to conduct relating to representation of claimants for benefits before VA; (10) information concerning an individual's exercise of remote access privileges to the Veterans Benefits Administration automated claim records, including identification codes and codes used to access various VA automated communications systems and records systems, as well as security profiles and possible security violations; (11) information, documents, correspondence, and decisions relating to the application for, and the grant, denial, suspension, or revocation of an individual's privilege of remote access to Veterans Benefits Administration automated claim records; (12) information, documents, correspondence, and decisions regarding the legality of representation provided to claimants seeking benefits by unaccredited individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Sections 501(a), 5901, 5902, 5903 and 5904.

PURPOSE(S):

The information collected in the system is used to ensure that claimants for veterans benefits have qualified, competent representation. The information will be used to determine whether a person is qualified to represent claimants before VA and, once accredited, whether a person may continue to represent claimants before VA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The record of an individual who is covered by this system may be disclosed to a member of Congress, or a staff person acting for the member, when the member or staff person requests the record on behalf of and at the request of that individual.

2. VA may disclose on its own initiative any information in the system, except the names and home addresses of veterans and their dependents, that is relevant to a suspected or reasonably imminent violation of the law whether civil, criminal, or regulatory in nature and whether arising by statute, regulation, rule, or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule, or order. VA may also disclose on its own initiative the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, or order issued pursuant thereto.

3. The name and address of a veteran which is relevant to a suspected violation or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to a Federal agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation or order issued pursuant thereto, in response to its official request.

4. The name and address of a veteran, which is relevant to a suspected violation or reasonably imminent violation of law concerning public health or safety, whether civil, criminal or regulatory in nature whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, may be disclosed to any foreign, State or local governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such organization, agency or instrumentality has made a written request that such name and address be provided for a purpose authorized by law.

5. The name, business address, phone number, and service organization affiliation(s) of claims agents, attorneys, and accredited representatives may be disclosed to requesting service organizations, claimants for benefits, and the general public in order to aid the requestor in verifying the identity and service organization affiliation of the accredited representative.

6. Listings containing the names, business addresses, and status of accreditation of present and former accredited representatives may be provided to recognized service organizations.

7. The name and address of a prospective, present, or former accredited representative, and any information concerning such accredited representative which is relevant to a refusal to grant accreditation, or a potential or past suspension or termination of accreditation of such representative, may be disclosed to the service organization(s) with whom the representative is affiliated.

8. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may also disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

9. VA may disclose the name and address of any prospective, present, or former accredited representative, claims agent, or attorney, and any information concerning such individual that relates to unlawful, unprofessional, or unethical actions by that individual or to VA's denial, cancellation, suspension or termination of an individual's VA accreditation, or to both, where applicable, to employing entities and State and Federal licensing organizations when such information may be relevant to the initial or continued employment or licensing of a prospective, present, or former accredited representative, claims agent, or attorney by an employing entity or licensing organization. VA will not disclose the names and home addresses of claimants and their dependents to licensing organizations pursuant to this routine use.

10. VA may disclose the name and address of any prospective, present, or former accredited representative, claims agent, or attorney, and any information concerning such individual that relates to unlawful, unprofessional, or unethical actions by that individual or to VA's denial, cancellation, suspension

or termination of an individual's VA accreditation, or to both, where applicable, to other Federal and State agencies and to Federal courts when such information may be relevant to the individual's provision of representational services before such agency or court. VA will not disclose the names and home addresses of claimants and their dependents pursuant to this routine use.

11. Disclosure may be made to the National Archives and Records Administration (NARA) and the General Services Administration (GSA) in records management inspections conducted under the authority of chapter 29 of title 44, United States Code.

12. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

13. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

14. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active records are maintained in individual folders stored in file cabinets. File cards with name and business addresses of individuals previously covered by this system are maintained in file cabinets; these records and those of newly accredited persons are also maintained in an electronic database. Listings of claim agents, attorneys, and accredited representatives are maintained both on magnetic disk and in hard copy in file cabinets. Identification codes and codes used to access various VA automated communications systems and records systems, as well as security profiles and possible security violations, are maintained on magnetic media in a secured environment within VA workspaces. Hard copies are maintained in locked containers.

RETRIEVABILITY:

Records and electronic files are maintained in alphabetical order by last name of the individuals covered by this system. A searchable list of claims agents, attorneys, and accredited representatives is available at OGC's internet Web site *http://www.va.gov/ogc/apps/accreditation/index.html.* Information concerning possible security violations associated with exercise or remote access privileges is retrieved by individual assignment numbers. Information concerning individual security profiles and codes assigned to an individual for that person to obtain access to various computer systems is retrieved by the individual's assignment number.

SAFEGUARDS:

1. This list of safeguards furnished in this System of Record is not an exclusive list of measures that has been, or will be, taken to protect individually-identifiable information.

VA will maintain the data in compliance with applicable VA security policy directives that specify the standards that will be applied to protect sensitive personal information. Security complies with applicable Federal Information Processing Standards (FIPS) issued by the National Institute of Standards and Technology (NIST). Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

2. Access to Automated Data Processing files is controlled at two levels: (1) Terminals, central processing units, and peripheral devices are generally placed in secure areas (areas that are locked or have limited access) or are otherwise protected; and (2) the system recognizes authorized users by means of an individually unique password entered in combination with an individually unique user identification code.

3. Access to automated records concerning identification codes and codes used to access various VA automated communications systems and records systems, as well as security profiles and possible security violations is limited to designated automated systems security personnel who need to know the information in order to maintain and monitor the security of the VA's automated communications and veterans' claim records systems. Access to these records in automated form is controlled by individually unique passwords/codes. Agency personnel may have access to the information on a need to know basis when necessary to advise agency security personnel or for use to suspend or revoke access privileges or to make disclosures authorized by a routine use.

4. Access to VA facilities where records, identification codes, passwords, security profiles and possible security violations are maintained is controlled at all hours by the Federal Protective Service, VA, or other security personnel and security access control devices.

RETENTION AND DISPOSAL:

VA maintains and disposes of records in accordance with records disposition authority approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel (022), 810 Vermont Ave., NW., Washington, DC 20420; Director, Compensation and Pension Service (21), 810 Vermont Ave., NW., Washington, DC 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained by the Assistant General Counsel under his or her name or other personal identifier, or wants to determine the contents of such records should submit a written request to the Assistant General Counsel (022), 810 Vermont Ave., NW., Washington, DC 20420. For requests concerning remote access program records, an individual should submit a written request to the Director, Compensation and Pension Service (21), 810 Vermont Ave., NW., Washington, DC 20420.

RECORD ACCESS PROCEDURES:

Individuals seeking copies of records under this system that pertain to themselves, or seeking to amend such records, should make those requests under the Privacy Act. Individuals seeking copies of records pertaining to others should request them under the Freedom of Information Act. All such requests must contain a reasonable description of the records requested and should be in writing, over the original, handwritten signature of the requester, and should be mailed to: FOIA/PA Officer (026G), Office of General Counsel, 810 Vermont Ave., NW., Washington, DC 20420. For requests concerning remote access program records, an individual should submit a written request to: FOIA/PA (20M33), Veterans Benefits Administration, 810 Vermont Ave., NW., Washington, DC 20420.

CONTESTING RECORD PROCEDURES:

See Records Access Procedures above.

RECORD SOURCE CATEGORIES:

Applications for accreditation of individuals, correspondence with and updates from accredited individuals, investigative materials, and recommendations and correspondence from service organizations and third parties.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9–11499 Filed 5–15–09; 8:45 am]

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Federal Register

Monday,
May 18, 2009

Part II

Nuclear Regulatory Commission

10 CFR Parts 50 and 52
Enhancements to Emergency Preparedness Regulations; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

RIN 3150–AI10

[NRC–2008–0122]

Enhancements to Emergency Preparedness Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) is proposing to amend certain emergency preparedness (EP) requirements in its regulations that govern domestic licensing of production and utilization facilities. A conforming provision would also be added in the regulations that govern licenses, certifications, and approvals for new nuclear power plants. The proposed amendments would codify certain voluntary protective measures contained in NRC Bulletin 2005–02, ''Emergency Preparedness and Response Actions for Security-Based Events,'' and other generically applicable requirements similar to those previously imposed by Commission orders. They would also amend other licensee emergency plan requirements based on a comprehensive review of the NRC's EP regulations and guidance. The proposed requirements would enhance the ability of licensees in preparing to take and taking certain emergency preparedness and protective measures in the event of a radiological emergency; address, in part, security issues identified after the terrorist events of September 11, 2001; clarify regulations to effect consistent emergency plan implementation among licensees; and modify certain EP requirements to be more effective and efficient.

DATES: Submit comments on the proposed rule by August 3, 2009. Submit comments on the information collection aspects of this proposed rule by June 17, 2009. Comments received after the above dates will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after these dates.

ADDRESSES: You may submit comments by any one of the following methods. Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

Federal e-Rulemaking Portal: Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2008–0122]. Address questions about NRC dockets to Carol Gallagher, telephone (301) 492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1677.

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 492–3446.

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

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, or (301) 415–4737, or by e-mail to *PDR.Resource@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Lauren Quiñones, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2007, e-mail *Lauren.Quinones@nrc.gov;* or Don Tailleart, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2966, e-mail *Don.Tailleart@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion
III. Public and Stakeholder Input to the Proposed Rule
IV. Specific Request for Comments
V. Section-by-Section Analysis
VI. Guidance
VII. Criminal Penalties
VIII. Agreement State Compatibility
IX. Availability of Documents
X. Plain Language
XI. Voluntary Consensus Standards
XII. Finding of No Significant Environmental Impact: Availability
XIII. Paperwork Reduction Act Statement
XIV. Regulatory Analysis: Availability
XV. Regulatory Flexibility Certification
XVI. Backfit Analysis

I. Background

After the terrorist events of September 11, 2001, the NRC determined that it was necessary to require certain modifications of EP programs for operating power reactor licensees to ensure continued adequate protection of public health and safety. These modifications were issued to licensees by NRC Order EA–02–026, ''Order for Interim Safeguards and Security Compensatory Measures,'' (Order EA–02–026), dated February 25, 2002. Order EA–02–026 was issued to the license holders of the 104 commercial nuclear power reactors in the United States. This order required licensees to implement interim compensatory measures (ICMs) for the post-September 11, 2001, threat environment and take actions such as:

(1) Review security and emergency plans to maximize compatibility between the plans;

(2) Assess the adequacy of staffing plans at emergency response facilities, and for licensees with an onsite emergency operations facility (EOF), identify alternative facilities capable of supporting emergency response;

(3) Develop plans, procedures and training regarding notification (including non-emergency response organization (ERO) employees), activation, and coordination between the site and offsite response organizations (OROs);

(4) Conduct a review of staffing to ensure that collateral duties are not assigned to responders that would prevent effective emergency response; and

(5) Implement site-specific emergency action levels (EALs) to provide an anticipatory response to a credible threat.

Following the issuance of Order EA–02–026, the NRC conducted inspections of licensee EP programs and held meetings with nuclear power industry representatives to discuss the inspection results and the modifications licensees had made to their EP programs.

Also following the terrorist events of September 11, 2001, the NRC evaluated the EP planning basis for nuclear power reactors given the changed threat environment. In SECY–03–0165, ''Evaluation of Nuclear Power Reactor Emergency Preparedness Planning Basis

Adequacy in the Post-9/11 Threat Environment,'' issued on September 22, 2003 (not publicly available), the NRC staff reported to the Commission that the EP planning basis remained valid, including scope and timing issues. However, the NRC staff also recognized that security events differ from accident events due to the planned action to maximize damage and loss of life and that the EP response to such events also differed. The NRC staff noted several EP issues that required further action to better respond to the post-September 11, 2001, threat environment.

On December 14, 2004, the NRC staff briefed the Commission on EP program initiatives. During the briefing, the NRC staff informed the Commission of its intent to conduct a comprehensive review of EP regulations and guidance. On February 25, 2005, in response to the Commission's staff requirements memorandum (SRM), SRM–M041214B, ''Briefing on Emergency Preparedness Program Initiatives, 1 p.m., Tuesday, December 14, 2004, Commissioners' Conference Room, One White Flint North, Rockville, Maryland (Open to Public Attendance),'' dated December 20, 2004, the NRC staff provided the Commission with a schedule of activities for the completion of the comprehensive review. The NRC staff, through SECY–05–0010, ''Recommended Enhancements of Emergency Preparedness and Response at Nuclear Power Plants in Post-9/11 Environment,'' issued on January 10, 2005 (not publicly available), requested Commission approval of the NRC staff's recommendations for enhancing, through new guidance documents, EP in the post-September 11, 2001, threat environment. In its SRM to SECY–05–0010, dated May 4, 2005 (not publicly available), the Commission directed the staff to provide the results of a comprehensive review of EP regulations and guidance. The SRM to SECY–05–0010 also approved the staff's recommendation to proceed with enhancements to EP issues as described in SECY–05–0010. As a result, the NRC staff issued Bulletin 2005–02 (BL–05–02), ''Emergency Preparedness and Response Actions for Security-Based Events,'' dated July 18, 2005, which recommended enhancements that licensees could integrate into EP programs at power reactors. BL–05–02 also sought to obtain information from licensees on their actions taken to implement Order EA–02–026 and to modify their EP programs to adjust to the current threat environment. Based on the results of the post BL–05–02 inspections, meetings with members of the nuclear power industry, and licensees' responses to BL–05–02, the NRC determined that licensees were implementing strategies to satisfy Order EA–02–026 and enhance their programs to address the changed threat environment.

As directed by the Commission SRMs discussed above, the NRC staff conducted a comprehensive review of the EP regulatory structure, including reviews of regulations and guidance documents. As part of this review, the NRC staff met with internal and external stakeholders through several public meetings in 2005 and 2006 to discuss the elements of the EP review and plans to update EP regulations and guidance. Section III of this document provides a list of the public and other stakeholder meetings.

On September 20, 2006, the NRC staff provided the results of its review to the Commission in SECY–06–0200, ''Results of the Review of Emergency Preparedness Regulations and Guidance''. In that paper, the NRC staff discussed the activities it had conducted to complete the review and provided its recommendation to pursue rulemaking for enhancements to the EP program. The NRC staff explained that the comprehensive review of the EP program identified several areas where the implementation of EP regulations and guidance, recent technological advances, and lessons learned from actual events, drills, and exercises had revealed to the NRC areas for potential improvement and increased clarity for the EP program. The staff divided the potential enhancements into two categories: hostile action-based EP issues and other EP issues. The NRC staff evaluated each issue and assigned it a priority of high, medium, or low based on an analysis of the issue's relationship to reactor safety, physical security, EP, NRC strategic goals of openness and effectiveness, and stakeholder impact.

The NRC staff's outreach efforts, data gathering, research, and analysis led to the identification of 12 issues with a high priority, including six security EP issues and six non-security EP issues. In SECY–06–0200, the staff presented a framework for the potential enhancements to the EP regulations and guidance to address these issues, including steps for implementation, prioritization, and resource estimates. Based on its review, the NRC staff recommended that the Commission approve rulemaking as the most effective and efficient means to ensure that the high priority EP issues were resolved with an opportunity for participation by all interested stakeholders.

In its SRM to SECY–06–0200, dated January 8, 2007, the Commission approved the NRC staff's recommendation to pursue rulemaking and guidance changes for enhancements to the EP program. On April 17, 2007, the staff provided its rulemaking plan to the Commission via a memorandum. During the development of the plan, the NRC staff assessed the issues identified in SECY–06–0200 and discussed the feasibility of conducting rulemaking and updating guidance on all issues. The staff determined that the best course of action was to conduct rulemaking on the 12 issues identified in SECY–06–0200 as having a high priority, and to reassess the remaining issues at a later date. The decision to conduct rulemaking on the highest priority issues would allow a more timely rulemaking effort to occur and would enable the staff to more completely assess the remaining lower priority issues. Due to the similarities between two issues known in the rulemaking plan as ''collateral duties'' and ''shift staffing and augmentation,'' these issues have been partially combined in this proposed rule. The NRC is considering non-rulemaking options for some of the elements of shift staffing and is also requesting stakeholder comments in Section V of this document. Additionally, the Commission directed the NRC staff in SRM–M060502, ''Staff Requirements—Briefing on Status of Emergency Planning Activities, (Two sessions) 9:30 a.m. and 1 p.m., Tuesday, May 2, 2006, Commissioners' Conference Room, One White Flint North, Rockville, Maryland (Open to public attendance),'' dated June 29, 2006, to coordinate with the Department of Homeland Security (DHS) to develop emergency planning exercise scenarios that would ensure that EP drills and exercises were challenging and did not precondition participant responses. This direction was incorporated into the rulemaking issue regarding the conduct of hostile action drills and exercises because it was so closely related.

In an effort to conduct a rulemaking that is transparent and open to stakeholder participation, the NRC engaged stakeholders through various means during the development of this proposed rule. The NRC discussed the proposed improvements to the EP regulations and guidance at several conferences with key stakeholders present including the 2007 Regulatory Information Conference and the 2008 National Radiological Emergency Preparedness Conference. These

meetings are discussed more fully in Section III of this document.

The NRC posted draft rule language on the e-rulemaking Web site, *http://www.regulations.gov,* on February 29, 2008, and solicited stakeholder comments. The NRC considered the comments received on the draft rule language in the process of developing the proposed rule. This is discussed further in Section IV of this document. The NRC continued the use of public meetings as a method to foster open communication with stakeholders when it held public meetings on March 5, 2008, and on July 8, 2008. At the March 5, 2008 meeting, the NRC staff discussed the draft preliminary rule language for the rulemaking on enhancements to emergency preparedness regulations and guidance and answered stakeholders' questions on the rule language. At the July 8, 2008 meeting, the NRC staff discussed the public comments on the draft preliminary rule language and answered stakeholders' questions on how these comments may be addressed in the proposed rule.

II. Discussion

The proposed amendments would require 10 CFR Part 50 licensees that are currently subject to the EP requirements, and applicants for operating licenses under Part 50 or combined licenses under Part 52 that would be subject to the proposed EP requirements to ensure that their EP programs meet the amended EP requirements. The proposed amendments would similarly apply to applicants for construction permits under Part 50 with respect to their discussion of preliminary plans for coping with emergencies (§ 50.34(a)(10)), and to applicants for early site permits under Part 52 that choose to propose either major features of an, or a complete and integrated, emergency plan (§ 52.17(b)(2)).

The 16 planning standards in § 50.47(b) apply to both onsite and offsite plans because, in making its licensing decision, the NRC looks at the application (or the licensee's activities in the case of existing facilities), the current State and local government emergency plans, and the Federal Emergency Management Agency's (FEMA) recommendation, which is based on the content of the State and local plans. FEMA's regulations in 44 CFR Part 350 also contain these 16 planning standards, which are used to make its recommendation on the adequacy of the plans and capability of the State and local governments to implement them; however, FEMA's regulations address only offsite (State and local government) plans. The changes that are proposed by the NRC in this rulemaking are designed to affect the onsite plans, not the offsite plans. The proposed changes have been written in a way that is expected to limit the chance of unintended impacts on FEMA regulations.

An effective EP program decreases the likelihood of an initiating event at a nuclear power reactor proceeding to a severe accident. EP cannot affect the probability of the initiating event, but a high level of EP increases the probability of accident mitigation if the initiating event proceeds beyond the need for initial operator actions. As a defense-in-depth measure, emergency response is not normally quantified in probabilistic risk assessments. However, the level of EP does affect the outcome of an accident in that the accident may be mitigated by the actions of the ERO or in the worst case, consequences to the public are reduced through the effective use of protective actions. Enhancements to the level of EP in this manner enhance protection of public health and safety through improvements in the response to unlikely initiating events that could lead to severe accidents without mitigative response.

The discussion of the proposed amendments is divided into two sections: Section II.A for security-related EP issues and Section II.B for non-security-related EP issues. The security-related issues are topics that address subjects similar to certain requirements in Order EA–02–026 and the guidance in BL–05–02. The non-security related issues are high priority items that resulted from the comprehensive review of EP regulations and guidance.

A. Security-Related Issues

The NRC is proposing amendments to enhance its EP regulations by clearly addressing EP actions for a hostile action event. Some of these proposed changes are based on requirements in Order EA–02–026 that was issued to ensure adequate protection of the public health and safety and common defense and security. After the issuance of Order EA–02–026, however, the Commission took several additional steps to ensure adequate protection of the public health and safety and common defense and security, including the issuance of Order EA–02–261, ''Access Authorization Order,'' issued January 7, 2003 (January 13, 2003; 68 FR 1643); Order EA–03–039, ''Security Personnel Training and Qualification Requirements (Training) Order,'' issued April 29, 2003 (May 7, 2003; 68 FR 24514); Order EA–03–086, ''Revised Design Basis Threat Order,'' issued April 29, 2003 (May 7, 2003; 68 FR 24517); the Design Basis Threat (DBT) final rule (March 19, 2007; 72 FR 12705); and the Power Reactor Security Requirements final rule (March 27, 2009; 74 FR 13926). As a result of these adequate protection requirements, the Commission has determined that the proposed EP changes that are based on the requirements of Order EA–02–026 would no longer be necessary to ensure adequate protection during a hostile action event. Therefore, because the existing regulatory structure ensures adequate protection of the public health and safety and common defense and security, the NRC has determined that, in the current threat environment, the following proposed amendments would not be necessary to ensure adequate protection during a hostile action event. These amendments are considered enhancements to the current EP regulations. However, these enhancements would result in a substantial increase in emergency preparedness and the protection of public health and safety.

1. On-Shift Multiple Responsibilities

The NRC is concerned that on-shift ERO personnel who are assigned to emergency plan implementation functions may have multiple responsibilities that would prevent timely performance of their assigned emergency plan tasks. The requirements for on-shift responsibilities are addressed in § 50.47(b)(2) and Part 50, Appendix E, Section IV.A. Currently, these regulations do not specifically require that on-shift personnel assigned to emergency plan implementation must be able to implement the plan effectively without having competing responsibilities that could prevent them from performing their primary emergency plan tasks. NRC regulations and guidance concerning licensee EROs are general in nature to allow some flexibility in the number of on-shift staff required for response to emergency events. This sometimes has resulted in the inadequate completion of emergency functions required during an emergency event. The NRC issued Information Notice (IN) 91–77, ''Shift Staffing at Nuclear Power Plants,'' dated November 26, 1991, to alert licensees to problems that could arise from insufficient on-shift staff for emergency response. The IN highlighted the following two events:

- A fire at one plant in April 1991 resulted in the licensee's failure to notify some key emergency response personnel (communication function). The need to staff the fire brigade and perform numerous response actions

required by the event resulted in a heavy workload for the shift staff.

• A fire, loss of offsite power, and reactor trip at another plant in June 1991 resulted in difficulties in classifying the event, notifying required personnel, implementing emergency operating procedures, and staffing the fire brigade. Insufficient staff contributed to the licensee's failure to make a timely Notification of Unusual Event.

The NRC issued IN 93–81, ''Implementation of Engineering Expertise On-Shift,'' dated October 12, 1993, to alert licensees of ineffective implementation of the requirement to provide adequate engineering expertise on shift. Each nuclear power plant is required to have a shift technical advisor (STA) on shift to provide engineering and accident assessment expertise. However, some licensees had assigned additional response duties to STAs, such as communicator or fire brigade member, which could result in overburdening the control room staff during an emergency event. One licensee had assigned the STA as fire brigade leader which could hinder the STA from performing the primary duty of providing accident assessment and engineering expertise.

After issuance of IN 91–77, event follow-up inspections indicated that challenges involving shift staffing and task allocation continued. The NRC initiated a study in 1995 to assess the adequacy of shift staffing for emergency response. The NRC published IN 95–48, ''Results of Shift Staffing Study,'' dated October 10, 1995, which cited several observations of inadequate staffing and also concluded that there could be a large workload for radiological support personnel during emergencies. Data was collected on the adequacy of nuclear power plant staffing practices for performing response activities during two accident scenarios, which were (1) a fire leading to reactor trip with complications, and (2) either a control room fire leading to evacuation and remote shutdown or a station blackout. Items of interest included the following:

• Licensees surveyed did not use a systematic process for establishing site-specific shift staffing levels.

• Licensees surveyed frequently assigned additional plant-specific tasks that were not specified by regulation to be performed by licensed and non-licensed operators during an event.

• Five of the seven licensees surveyed used licensed personnel to staff the fire brigade.

• Procedures varied significantly concerning licensed and non-licensed personnel staffing levels, and the number of non-licensed operators used on the night-shift varied greatly.

• Radiation protection and chemistry technicians of all the licensees surveyed had a high workload during the scenarios.

Multiple NRC inspection findings also indicate the need for regulatory clarity in the assignment of multiple responsibilities to on-shift ERO personnel. For example, in February 2003, one licensee revised its emergency plan to delete one of three communicators and assigned the communicator function to the STA as an additional duty. As previously stated, the primary emergency plan duty of the STA is to provide engineering and accident assessment expertise. The NRC determined that this emergency plan change was an inappropriate reduction in on-shift staff and assessed the change as a decrease in effectiveness of the emergency plan in violation of § 50.54(q). In April 2005, another licensee revised its emergency plan to allow the assignment of the on-shift health physics technician (HP Tech) as the interim operations support center coordinator, a 30-minute augmented ERO responder. The HP Tech had assigned emergency plan tasks including in-plant surveys, in-plant protective actions, and rescue/first aid. The NRC determined that this emergency plan change was an inappropriate assignment of augmentation staff duties to an on-shift responder and assessed the change as a decrease in effectiveness of the emergency plan in violation of § 50.54(q).

These findings demonstrated the need for amended regulations to explicitly limit on-shift ERO response duties to ensure that these emergency responders do not become overburdened during an emergency event. Assigning additional duties, such as fire brigade member could result in on-shift responders being overburdened, resulting in inadequate or untimely response.

The ICMs in Order EA–02–026 addressed on-shift staff responsibilities by requiring licensees to ensure that a sufficient number of on-shift personnel are available for integrated security plan and emergency plan implementation. Prior to issuance of the order, some licensees were utilizing security personnel to implement the emergency plan when many of these responders would likely not be available due to a hostile action.

The NRC considered several options to resolve this issue. One option was to take no action, but this alternative would not subject new nuclear power reactor licensees to Order EA–02–026's requirement of an assessment to ensure adequate staff for integrated security plan and emergency plan implementation. Additionally, the shift staffing study referenced in IN 95–48 found that the licensees surveyed did not use a systematic process for establishing shift staffing levels and additional tasks, not required by regulation, were assigned to the licensed and non-licensed operators. This practice could result in operators being overburdened during an emergency. A second option was to allow licensees to use a voluntary program to ensure adequate shift staffing. However, many licensees have requested NRC permission to reduce on-shift staffing levels and the NRC expects this practice to continue. This could increase the risk of over-burdening on-shift responders and result in inadequate or untimely response. Therefore, both of these options were considered unacceptable. Instead, the NRC is proposing to revise Part 50, Appendix E, Section IV.A. to address this issue, as discussed in Section V of this document.

2. Emergency Action Levels for Hostile Action Events

Section 50.47(b)(4) currently stipulates that emergency plans must include a standard emergency classification and action level scheme. Part 50, Appendix E, Section IV.B., currently specifies that emergency plans shall include EALs that are to be used as criteria for determining the need for notification of State and local agencies, and participation of those agencies in emergency response. However, NRC regulations do not require EALs for hostile action events and do not address the issue of anticipatory response to hostile action events. Although Order EA–02–026 and BL–05–02 addressed these issues, those improvements to the EAL requirements to address hostile action events are only in orders and guidance. Thus, the NRC cannot ensure consistent and effective implementation of these enhancements among existing and future licensees.

Order EA–02–026 required the declaration of at least an Unusual Event in response to a credible hostile action threat. In 2005, the NRC issued BL–05–02, which provided EAL enhancement examples for hostile action events up to the General Emergency level. BL–05–02 provided examples of EALs for all three EAL methodologies that could be implemented immediately without prior NRC approval (i.e., NUREG–0654/FEMA–REP–1, ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear

Power Plants,'' NUMARC/NESP–007, ''Methodology for Development of Emergency Action Levels,'' and Nuclear Energy Institute (NEI) 99–01, ''Methodology for Development of Emergency Action Levels''). It also pointed out that because of improvements in Federal agencies' information-sharing and assessment capabilities, hostile action emergency declarations can be accomplished in a more anticipatory manner, based on a credible threat, than the current method of making declarations for accidental events. This would enable earlier implementation of emergency response actions.

Although all licensees have implemented both the credible threat EAL required by Order EA–02–026 and the EAL enhancements specified in BL–05–02, there is no requirement to maintain the enhancements identified in the bulletin. This could result in inconsistent EAL implementation among licensees for response to hostile action events. Also, future licensees would not be required to include these enhancements in their emergency plans. This rulemaking would serve to establish consistent EALs across the nuclear power industry for hostile action events. The ICMs and BL–05–02 provided enhancements to EAL schemes which would allow event declarations to be accomplished in a more anticipatory manner. This is of the utmost importance because EALs are used as criteria for determining the need for notification and participation of State and local agencies. The NRC believes that these enhancements to the EAL requirements addressing hostile action events should be codified by revising Part 50, Appendix E, Section IV.B., as discussed in Section V of this document.

The NRC considered other options to attempt to resolve these issues, such as taking no action or allowing voluntary action by licensees. These options were rejected since there would continue to be no regulatory requirement for current or future licensees to incorporate EALs for hostile action events in their emergency plans, nor would there be a consistent minimum level of implementation that the NRC had determined to be adequate.

3. Emergency Response Organization (ERO) Augmentation and Alternative Facilities

Currently, § 50.47(b)(8) and Part 50, Appendix E, Section IV.E. require licensees to have the capability to augment the on-shift staff within a short period of time after the declaration of an emergency to assist in mitigation activities. To accomplish this, ERO members typically staff an onsite Technical Support Center (TSC) which relieves the Control Room (CR) of emergency response duties and allows CR staff to focus on reactor safety. ERO members also staff an onsite Operational Support Center (OSC) to provide an assembly area for damage repair teams. Lastly, ERO members staff an EOF, usually located in close proximity to the plant, to function as the center for evaluation and coordination activities related to the emergency and the focal point of information provided to Federal, State, and local authorities involved in the response.

However, the regulations at § 50.47(b)(8) and Part 50, Appendix E, Section IV.E. do not require licensees to identify alternative facilities to support ERO augmentation during hostile action events. During a hostile action event, ERO members would likely not have access to the onsite emergency response facilities, or the EOF if it is located within the licensee's owner-controlled area. Nevertheless these events still warrant timely ERO augmentation so responders can travel quickly to the site.

Order EA–02–026 required that licensees assess the adequacy of staffing plans at emergency response facilities during a hostile action event, assuming the unavailability of the onsite TSC, and identify alternative facilities capable of supporting event response. These facilities would function as staging areas for augmentation staff until the site was secured, which would minimize delays in overall site response by permitting ERO assembly without exposing responders to the danger of hostile action. NRC inspections to evaluate the effectiveness of the implementation of the ICMs revealed variations in the identification and staffing of alternative emergency response facilities.

BL–05–02 described how alternative locations for onsite emergency response facilities support EP functions during a hostile action event. It stated that the ERO is expected to be staged in a manner that supports rapid response to limit or mitigate site damage or the potential for an offsite radiological release. It also pointed out that some licensees have chosen not to activate elements of the ERO during a hostile action event until the site was secured. However, the NRC considers it prudent to fully activate ERO members for off-normal working hour hostile action events to promptly staff alternative facilities, in order to minimize delays in overall site response. Even during normal working hours, licensees should consider deployment of onsite ERO personnel to an alternative facility near the site during a hostile action event.

To resolve this issue, the NRC considered taking no regulatory action or continuing the voluntary implementation currently in place as a result of BL–05–02 and the guidance endorsed by NRC Regulatory Issue Summary (RIS) 2006–12, ''Endorsement of Nuclear Energy Institute Guidance 'Enhancements to Emergency Preparedness Programs for Hostile Action,' '' dated July 19, 2006. If no action were taken, there would continue to be no explicit regulatory requirement regarding the actions necessary during hostile action events for the ERO to staff an alternative facility. ERO members would likely not have access to the site during a hostile action event, but timely augmentation would still be necessary for adequate response. Taking no regulatory action may result in inconsistent implementation of ERO augmentation guidelines, and less effective overall site response. The NRC also considered using a voluntary program; however, voluntary programs, such as those developed per the NEI guidance endorsed by RIS 2006–12, do not provide a consistent, NRC-approved means for addressing needed enhancements for hostile action events. The use of voluntary programs does not ensure long-term continuity of the enhancements for both licensees and applicants. Thus, the NRC believes that the ICM requirement and the enhancement examples described in BL–05–02 concerning ERO augmentation to alternative facilities during hostile action events should be codified in Part 50, Appendix E, Section IV.E. to maximize the effectiveness of the site response. These proposed changes are discussed in Section V of this document.

4. Licensee Coordination With Offsite Response Organizations During Hostile Action Events

The NRC believes that a unique challenge posed by a hostile action event at a nuclear power plant is the increased demand on local law enforcement agencies (LLEAs) that are expected to implement portions of ORO emergency plans, as well as respond to the plant. Currently, § 50.47(b)(1) and Appendix E to Part 50 do not explicitly require licensees to coordinate with OROs to ensure that personnel are available to carry out preplanned actions, such as traffic control and route alerting by LLEAs, during a hostile action event directed at the plant.

Licensees are required to identify ORO support for emergency response as well as demonstrate that various ORO

capabilities exist through biennial evaluated exercises. Licensees and OROs have successfully demonstrated these capabilities for many years. However, the NRC recognized that hostile action events may challenge OROs in ways unforeseen at the time the current regulations were developed. For example, local law enforcement personnel may be assigned both evacuation plan and armed response duties during a hostile action event. The NRC acknowledged this challenge when it issued Order EA–02–026 and included provisions that licensees address coordination with OROs for hostile action events. Specifically, the order required that licensees develop plans, procedures, and training regarding coordination between the site and OROs and directed licensees to review emergency plans to ensure sufficient numbers of personnel would be available in a hostile action event.

The NRC subsequently became aware through inspections and communications with licensees that ORO plans must be reviewed to ensure sufficient numbers of personnel would be available to respond during a hostile action event. The NRC communicated this need to licensees and OROs through RIS 2004–15, ''Emergency Preparedness Issues: Post-9/11,'' dated October 18, 2004, which provided information on EP issues based on NRC staff observations from the EP component of force-on-force (FOF) exercises and lessons learned from the telephonic walk-through drills conducted with all power reactor sites between August and October 2005. In addition, DHS initiated the Comprehensive Review Program that conducted a review of site and ORO response to hostile action at every nuclear plant site. This review often identified a gap in ORO resource planning. Based on these findings and lessons learned from hostile action pilot program drills (see Section II.A.6 of this document), the NRC believes there is inconsistent implementation among licensees concerning effective coordination with OROs to ensure that adequate resources are available to respond to a hostile action event at a nuclear power plant.

Licensees and the supporting OROs have taken various actions to respond to this issue, but criteria for determining the adequacy of the licensee and ORO actions have not been established. The NRC considered encouraging industry to develop and implement a voluntary program; however, voluntary programs do not provide a consistent, NRC-approved means for addressing the needed enhancements in the post-September 11, 2001, threat environment. The NRC believes that a voluntary approach would not ensure consistent industry-wide implementation of the ICM requirements and there would be no requirement for new licensees to incorporate the changes into their emergency plans.

The NRC is proposing to revise Part 50, Appendix E, Section IV.A.7. to require licensees to ensure that ORO personnel assigned emergency plan implementation duties would be available to do so during hostile action events. These proposed changes are discussed in Section V of this document.

5. Protection for Onsite Personnel

NRC regulations at § 50.47(b)(10) and Appendix E to Part 50 do not currently require specific emergency plan provisions to protect onsite emergency responders, and other onsite personnel, in emergencies resulting from hostile action events at nuclear power plants. Licensees are required to provide radiological protection for emergency workers and the public in the plume exposure pathway emergency planning zone (EPZ), including actions such as warning of an emergency, providing for evacuation and accountability of individuals, and providing for protective clothing and/or radio-protective drugs. Many of these personnel are required by the site emergency plan that the licensee must follow and maintain. The emergency plan requires responders with specific assignments to be available on-shift 24 hours a day to minimize the impact of radiological emergencies and provide for the protection of public health and safety. However, in analyses performed after the terrorist attacks of September 11, 2001, the NRC staff determined that a lack of protection for emergency responders who are expected to implement the emergency plan could result in the loss of those responders and thus an inability to effectively implement the emergency plan.

The normal response actions for personnel protection, such as site evacuation, site assembly and accountability, and activation of onsite emergency response facilities, may not be appropriate in this instance because these actions may place at risk the response personnel necessary to mitigate plant damage resulting from the hostile action. BL–05–02 pointed out that actions different than those normally prescribed may be more appropriate during a hostile action, particularly an aircraft attack. This may include actions such as evacuation of personnel from potential target buildings and accountability of personnel after the attack has concluded. Precise actions would depend on site-specific arrangements, such as the location of personnel in relation to potential targets. Procedures would need to be revised to ensure plant page announcements are timely and convey the onsite protective measures deemed appropriate.

The NRC considered other options to attempt to resolve this issue. The NRC considered taking no additional regulatory action and relying upon continuation of the voluntary initiatives currently being implemented by licensees as a result of BL–05–02. The NRC believes that taking no action could result in the vulnerability of onsite personnel during a hostile action event. Action is necessary to ensure effective coordination to enable licensees to more effectively implement their pre-planned actions. Voluntary programs do not provide a consistent, NRC-approved means for addressing needed enhancements. Further, the implementation of voluntary actions does not ensure that these measures would be incorporated into emergency plans at new sites.

The NRC is proposing to revise Appendix E by creating a new Section IV.I. to address this issue, as discussed in Section V of this document.

6. Challenging Drills and Exercises

A basic EP principle is that licensees conduct drills and exercises to develop and maintain key skills of ERO personnel. Drill and exercise programs contribute to the NRC determination of reasonable assurance that licensees can and will implement actions to protect public health and safety in the unlikely event of a radiological emergency. Implementation of the current regulations provides reasonable assurance of adequate protection of public health and safety at every nuclear plant site.

In the unlikely event that a licensee faces a hostile action event, the response organization will encounter challenges that differ significantly from those practiced in long-standing drill and exercise programs because these programs have not included hostile action event scenarios. The NRC regulations addressing this issue are general in nature and do not explicitly require licensees to include hostile action event scenarios in drills and exercises, nor do they directly allow the NRC to require specific scenario content. The NRC believes that its regulations should be revised to do so.

Following the terrorist attacks of September 11, 2001, the NRC conducted

a review of the EP planning basis in view of the changed threat environment and concluded that the EP planning basis remains valid. The NRC observed licensee performance during hostile-action EP tabletop drills at four sites, a drill at one site, and an exercise at one site, as well as several security FOF exercise evaluations. The NRC also discussed security-based EP issues with licensees and Federal, State, and local EP professionals and advocacy groups and issued BL–05–02 to collect information from licensees on the enhancements to drill and exercise programs to address the hostile action contingency.

Through these efforts, the NRC concluded that although EP measures are designed to address a wide range of events, response to hostile action can present unique challenges not addressed in licensee and ORO drills and exercises, such as:

- Extensive coordination between operations, security, and EP;
- Use of the alternative emergency response facilities for activation of the ERO;
- Execution of initial response actions in a hostile environment (i.e., during simulated hostile action);
- The need to shelter personnel from armed attack or aircraft attack in a manner very different from that used during radiological emergencies;
- Conduct of operations and repair activities when the site conditions prevent normal access due to fire, locked doors, security measures, and areas that have not yet been secured;
- Conduct of operations and repair activities with large areas of the plant damaged or on fire;
- Rescue of and medical attention to significant numbers of personnel; and
- Prioritization of efforts to protect plant equipment or to secure access to plant areas for repairs.

In response to BL–05–02, all nuclear plant licensees stated that they would develop and implement an enhanced drill and exercise program. Program elements are captured in a guidance document developed by NEI, NEI 06–04, Rev. 1, ''Conducting a Hostile Action-Based Emergency Response Drill.'' The NRC endorsed this document for use in a pilot program in RIS 2008–08, ''Endorsement of Revision 1 to Nuclear Energy Institute Guidance Document NEI 06–04, 'Conducting a Hostile Action-Based Emergency Response Drill,' '' dated March 19, 2008. However, implementation of these enhancements is voluntary, and the NRC cannot require licensees to maintain these enhancements, absent issuance of an order or a regulation. Issuance of orders is resource intensive and an inefficient approach to address a generic problem.

The NRC also became aware of a related issue regarding EP exercise scenarios. The NRC inspects licensee response during these exercises and FEMA evaluates the capabilities of OROs. Licensees have performed many evaluated EP exercises and understand NRC and FEMA expectations. Licensees design scenarios in coordination with State and local agencies to demonstrate all key EP functions in a manner that facilitates evaluation. As a result, scenarios have become predictable and may precondition responders to sequential escalation of emergency classifications that always culminate in a large radiological release. Current biennial exercise scenarios do not resemble credible reactor accidents in that the timing is improbable and the intermittent containment failure typically used is unlikely. Typical scenarios used by licensees in biennial exercises involve simulated accidents, such as a loss of coolant accident or a steam generator tube rupture. However, certain predictable artifacts emerge in almost all biennial exercise scenarios, including the following:

- The ERO will not be allowed to mitigate the accident before a release occurs;
- The release will occur after a General Emergency is declared;
- The release will be terminated before the exercise ends; and
- The exercise will escalate sequentially through the emergency classes.

In short, responders may be preconditioned to accident sequences that are not likely to resemble the accidents they could realistically face.

In SRM–M060502, dated June 29, 2006, the Commission directed the NRC staff to develop exercise scenarios in conjunction with DHS, as follows:

The staff should coordinate with DHS to develop emergency planning exercise scenarios which would help avoid anticipatory responses associated with preconditioning of participants by incorporating a wide spectrum of releases (ranging from little or no release to a large release) and events, including security-based events. These scenarios should emphasize the expected interfaces and coordination between key decision-makers based on realistic postulated events. The staff should share experiences of preconditioning or ''negative training'' with DHS.

As a result of the SRM, a joint NRC/FEMA working group was formed to review the development of emergency planning exercise scenarios. The working group was assigned the task of identifying the NRC and FEMA regulations that would require revision to enhance exercise scenarios and guidance to assist in the effective implementation of these regulations. The working group recommended several changes to the FEMA Radiological Emergency Preparedness (REP) Program Manual that comport with proposed changes to NRC regulations to address preconditioning and the incorporation of hostile action exercise scenarios.

FEMA held focus group meetings in several FEMA regions to discuss potential policy changes to the REP Program Manual. The NRC supported these meetings to facilitate questions as they may relate to the EP rulemaking issue of challenging drills and exercises. For example, stakeholders voiced opinions on the requirements for the development and review of exercise scenarios, whether all emergency classification levels (ECLs) must be included in each exercise or if one or more ECLs can be skipped, how radiological release conditions and options could vary, and if a spectrum of scenarios will be varied to create more realistic and challenging exercises. Comments received from the several different focus groups will inform the update to the REP Program Manual. The NRC also considered stakeholder views as they relate to this proposed rule and enhancements to EP guidance, although some comments were received after the deadline to be considered in this proposed rule.

The NRC believes that a regulatory change would be necessary to enhance scenario content to include hostile action scenarios and reduce preconditioning through a wide spectrum of challenges. This change would improve licensee ERO capability to protect public health and safety under all accident scenarios as well as reverse any trend toward preconditioning.

The NRC also considered not making any change to the regulations, but rejected that option because it would not ensure correction of the issues discussed above. The NRC also discussed the use of voluntary programs and although this option could be successful, the NRC could not require that changes made would be permanent and consistent across all sites.

The NRC is proposing to revise Appendix E, Section IV.F. to address these issues, as discussed in Section V of this document.

B. Non-Security Related Issues

The remaining proposed changes would be new or amended requirements

that would result in a substantial increase to public health and safety because they would maintain or strengthen the ability of licensees to effectively implement their emergency plans.

1. Backup Means for Alert and Notification Systems

The regulations for alert and notification system (ANS) capabilities are found in § 50.47(b)(5) and Part 50, Appendix E, Section IV.D.3. and require licensees to establish the capability to promptly alert and notify the public if there is an emergency event while meeting certain ANS design objectives. NRC regulations do not currently require backup power for sirens or other backup ANS alerting capabilities when a major portion of the primary alerting means is unavailable. The regulations also do not address backup notification capabilities. If a major portion of a facility's ANS is unavailable and no backup exists, then the public may not be promptly alerted of an event at the facility and the protective actions to be taken, which could affect the public's response to the event.

An ANS provides the capability to promptly alert the populace within the plume exposure pathway EPZ of a nuclear power plant in case of an emergency event and to inform the public what protective actions may need to be taken. The predominant method used around U.S. nuclear power plants for alerting the public is an ANS based on sirens to provide an acoustic warning signal. Some sites employ other means, such as tone alert radios and route alerting, as either primary or supplemental alerting methods. The public typically receives information about an event and offsite protective actions via emergency alert system (EAS) broadcasts or other means, such as mobile loudspeakers.

In several instances, nuclear power plants have lost all or a major portion of the alert function of an ANS for various reasons, such as damage to ANS components caused by severe weather, loss of offsite alternating current (AC) power, malfunction of ANS activation equipment, or unexpected problems resulting from ANS hardware/software modifications. In other situations, the notification capability has been lost (e.g., the inability to activate tone alert radios which are used to provide both an alert signal and notification function).

The NRC has issued multiple INs to document the circumstances when ANS failures have occurred, including IN 2002–25, ''Challenges to Licensees' Ability to Provide Prompt Public Notification and Information During an Emergency Preparedness Event,'' dated August 26, 2002; IN 2005–06, ''Failure to Maintain Alert and Notification System Tone Alert Radio Capability,'' dated March 30, 2005; and IN 2006–28, ''Siren System Failures Due to Erroneous Siren System Signal,'' dated December 22, 2006. IN 1996–19, ''Failure of Tone Alert Radios to Activate When Receiving a Shortened Activation Signal,'' dated April 2, 1996, addressed the inability to activate some tone alert radios because of a shorter tone activation signal permitted as part of EAS implementation. Without the ability to warn the population, the effectiveness of the notification element may be significantly reduced. Having a backup means in place would lessen the impact of the loss of the primary ANS.

Other events impacting ANS operability have involved the widespread loss of the electrical grid providing power to siren-based systems, such as the electrical blackout in several areas of the northeastern United States and portions of Canada in August 2003. As discussed in Regulatory Guide (RG) 1.155, ''Station Blackout'' (August 1988), although the likelihood of failure of the onsite AC power system coincidental with the loss of offsite power is small, station blackout events may be substantial contributors to core damage events for some plants.

The U.S. Congress recognized that all emergency notification systems may not operate in the absence of an AC power supply and encouraged the use of newer alerting and notification technology. In U.S. House of Representatives Committee on Appropriations Report 107–740, FEMA was directed to update its guidance on outdoor warning and mass notification systems and require all warning systems to be operable in the absence of an AC power supply. The House Appropriations Committee also urged FEMA to consult with other relevant agencies and revise the national standard for outdoor warning and mass notification to reflect state-of-the-art technology. Moreover, the Energy Policy Act of 2005 directed the Commission to require backup power for the emergency notification system, including siren systems, for nuclear power plants located where there is a permanent population, as determined by the 2000 decennial census, in excess of 15,000,000 within a 50-mile radius of the power plant. Therefore, it is appropriate that the NRC also consider changes to its existing regulations and guidance regarding warning systems for all nuclear power reactor licensees.

The NRC considered several options to attempt to resolve this issue, including reliance on ANS design review standards and related guidance documents to address ANS backup means. Several NRC and FEMA guidance documents, such as NUREG–0654, FEMA–REP–10, ''Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants,'' dated November 1985, and FEMA Guidance Memorandum AN–1, ''FEMA Action to Qualify Alert and Notification Systems Against NUREG–0654/FEMA–REP–1 and FEMA–REP–10,'' dated April 21, 1987, contain detailed information on ANS capabilities and design review methodology. Additional information on ANS backup capabilities could be provided in revisions to these documents. As guidance, a provision for an ANS backup means would not be considered a requirement and its applicability to existing approved ANS designs would be considered optional. As noted previously in this discussion, FEMA was also directed to update its guidance to require all warning systems to be operable in the absence of an alternating current power supply. However, guidance changes limited to backup power requirements for the alerting function would not address backup capabilities for other types of alerting devices or the ANS notification function. In summary, this option does not provide a regulatory resolution to ensure that nuclear power plant ANS designs include a backup method to the primary means for both alerting and notification, and thus the NRC considered this option to be unacceptable.

Use of a voluntary approach for ANS backup means was also considered. Some current nuclear power plant ANS designs address one or more aspects of backup ANS capabilities, such as providing backup power in the event primary power to sirens is lost, using backup route alerting when sirens are inoperable, or designating multiple EAS broadcast stations to ensure that instructional messages can be transmitted. A voluntary approach may be appropriate because State and local authorities can usually compensate for the temporary loss of some ANS capabilities. However, allowing licensees or applicants to voluntarily install backup ANS capabilities will not ensure that both the alerting and notification functions are addressed, or that new sites will have warning systems designed with comprehensive backup ANS capabilities. Given the importance of ANS to alert the public of an event at a facility and the protective actions to be taken, and without any voluntary industry commitment that

existing or new warning systems will have a backup means available, the NRC considered a voluntary approach to be inappropriate and found this option unacceptable.

The NRC believes that nuclear power reactor licensees should be required to have backup ANS methods and therefore is proposing rulemaking to address backup capabilities for both the alert and notification functions. Three alternatives for addressing this issue in rulemaking were considered.

The first alternative would add a regulatory requirement for ANS backup power. The most common warning system used at U.S. nuclear power plants is based on sirens that are powered directly, or indirectly through batteries, by an AC power source. As noted previously in this discussion, the loss of power is not the only failure mode that can impact warning systems. Causes of past ANS inoperability problems have included the inability to detect siren failures, the inability to activate sirens, the failure to test and maintain personal home alerting devices, the use of telephone call-inhibiting devices, and the failure to provide and maintain distribution lists of tone alert radios. Thus, a regulatory requirement addressing only backup ANS power would not eliminate any of these other failure modes. This approach would prescribe one specific method as a backup means, precluding licensees (or applicants) and offsite officials from considering alternative methods, such as route alerting or newer communications technology, that may be more suitable for certain nuclear power plant sites. In summary, it would address only one of several ANS failure modes (i.e., loss of AC power) for one alerting method (i.e., sirens). It would not address backup methods for other types of alerting devices or any part of the notification process. Therefore, the NRC considered this approach to be unacceptable.

The second alternative would require that the primary ANS be designed so there would be no common single failure mode for the system; therefore, a backup system would not be needed. This approach would ensure that the entire ANS is designed and built to a very high level of reliability. Any equipment necessary for ANS activation and operation (e.g., computers, radio transmitters and radio towers, plus the actual alerting devices and notification means) would have redundant components and power sources as necessary to eliminate any common single failure mode, such as a widespread power outage affecting a siren-based system. However, ensuring that all ANS common single failure vulnerabilities have been identified and adequately addressed would be difficult. Even after extensive analysis and testing of a warning system, a common failure mechanism may not become evident until the system is to be activated for an emergency event. For a siren-based system, several additional sirens (with backup power capabilities) may need to be installed to provide overlapping acoustic coverage in the event clusters of sirens fail and thus may discourage licensees at future nuclear power plant sites from using these systems due to the increased cost for installing additional sirens. This approach may not be applicable to non-electronic primary warning systems based on other methods, such as route alerting. For these reasons, the NRC considered this approach to be unacceptable. Rejecting this approach does not mean that the issue of backup power for warning systems will be left unaddressed. As discussed previously, the House Committee on Appropriations has directed FEMA to require all outdoor warning systems to be operable in the absence of AC power.

The third alternative was selected for rulemaking and would revise Part 50, Appendix E, Section IV.D.3. to require backup measures that would be implemented when the primary means of alerting and notification are unavailable. These proposed changes are discussed in Section V of this document.

2. Emergency Declaration Timeliness

In its oversight of licensee EP programs, the NRC has observed a few licensees whose responses in performing emergency declarations were inappropriately delayed. This situation may be a result of a lack of a specific regulatory timeliness requirement. Emergency declaration is the process by which a licensee determines whether an off-normal plant condition warrants declaration as an emergency and, if so, which of the four emergency classes—Notification of Unusual Event, Alert, Site Area Emergency, or General Emergency—is to be declared.

These declarations are fundamental to the licensee's EP program in that onsite and offsite emergency response activities are implemented in a staged, proportional manner, based upon the level of the declared emergency. If an emergency declaration is delayed, the subsequent emergency response actions may not be timely. Emergency response personnel, facilities, and equipment may not be in position should it become necessary to implement measures to protect public health and safety.

The NRC has issued generic communications to alert licensees of these concerns and to advise them of the NRC's expectation that emergency classifications [3] would be made in a prompt manner. In 1985, the NRC published IN 85–80, ''Timely Declaration of an Emergency Class, Implementation of an Emergency Plan, and Emergency Notifications,'' to alert licensees of two instances in which declarations and/or notifications of an actual emergency condition were significantly delayed and to express the NRC expectation of timely emergency declarations. In 1995, the NRC found it necessary to publish Emergency Preparedness Position (EPPOS)–2, ''Emergency Preparedness Position (EPPOS) on Timeliness of Classification of Emergency Conditions,'' to provide guidance to NRC staff in evaluating licensee performance in the area of timely classification. The NRC cited classification delays in actual events and exercises as the reason for issuing the guidance. EPPOS–2 provided the NRC expectation that the classification should be made promptly following indications that conditions have reached an EAL threshold and that 15 minutes would be a reasonable goal for completing the classification once indications are available to the control room operators. The NRC based that conclusion on the belief that 15 minutes is a reasonable period of time for assessing and classifying an emergency once indications are available to cognizant personnel, and that a delay in classification for up to 15 minutes would have a minimal impact upon the overall emergency response and protection of the public health and safety. The NRC noted that emergency classification schemes have reached a level of maturity in which the classification of emergencies can be accomplished in a relatively short period of time once the abnormal condition and associated plant parameters are known by cognizant licensee personnel. EPPOS–2 stated that the 15-minute period was not to be viewed as a grace period in which a licensee could resolve a condition that had already exceeded an EAL threshold to avoid a declaration.

This 15-minute goal was not a regulatory requirement but was rather a

[3] Early NRC generic communications routinely used the phrase ''emergency classification'' to denote the outcome of the process to assess, classify, and declare an emergency condition. This document uses the phrase ''emergency declaration'' in place of ''emergency classification'' except when summarizing an earlier document.

guideline for staff evaluation of a licensee's performance in responding to an actual radiological emergency. This goal was subsequently incorporated as a criterion in the industry-proposed and NRC-approved Reactor Oversight Process (ROP) EP Cornerstone performance indicators (PIs). Although the reported classification performance during drills and exercises remains high, there have been a few instances, during actual events, in which classifications were inappropriately delayed. Although these few actual events did not warrant public protective measures, this may not always be the case.

The NRC considered the following options for addressing this regulatory problem. The first option, take no action, was rejected because it would not address the regulatory problem. The second option, continue to rely on the industry's voluntary PI, was rejected because the existence of the PI has not prevented untimely classifications during actual emergencies. Although these occurrences were associated with Unusual Events or Alerts, the observed weaknesses could also have occurred under different circumstances in which the potential impact to the public could have been greater. The third option, issue regulatory guidance, was rejected because although regulatory guidance is an appropriate mechanism for identifying acceptable means for complying with broadly worded regulatory requirements, there is currently no regulatory requirement, broad or otherwise, that emergency declarations meet any particular timeliness criterion. The NRC believes that the fourth option, an amendment of the regulations, would be the best course of action to ensure that licensees are aware that they are responsible for completing emergency declarations in a timely manner in the event of a radiological emergency.

Placing a declaration timeliness criterion into the regulations would clearly establish the NRC's expectations, as well as provide a regulatory framework to consistently enforce these expectations. The NRC considered amending § 50.47(b)(4), Part 50, Appendix E, Section IV.B., IV.C., or IV.D., or a combination of all of them. The NRC opted not to amend § 50.47(b)(4) because it is applicable to both onsite and offsite emergency plans, whereas Appendix E is applicable to an applicant or licensee—the entity responsible for making emergency declarations.

The NRC also considered providing either a performance criterion or a capability criterion. Similar to the notification timeliness criterion in Appendix E, Section IV.D.3., in which the NRC requires licensees to be capable of notifying responsible State and local governmental agencies within 15 minutes after declaring an emergency, the NRC opted to propose a capability criterion, rather than an inflexible performance criterion. This would allow licensees some degree of flexibility during an actual radiological emergency in addressing extenuating circumstances that may arise when an emergency declaration may need to be delayed in the interest of performing plant operations that are more urgently needed to protect public health and safety. These delays would be found acceptable if they did not deny State and local authorities the opportunity to implement actions to protect the public health or safety under their emergency plans and the cause of the delay was not reasonably within the licensee's ability to foresee and prevent. Based upon these considerations, the NRC is proposing to revise Part 50, Appendix E, Section IV.C. to address this issue by providing a capability criterion. These proposed changes are discussed in Section V of this document.

3. Emergency Operations Facility—Performance-Based Approach

Several nuclear power plant licensees have submitted requests for NRC approval to combine EOFs for plants they operate within a State or in multiple States into a consolidated EOF. In some instances, the consolidated EOF is located at a substantial distance from one or more of the plant sites and is no longer considered a ''near-site'' facility, as required by §§ 50.34(f)(2)(xxv), 50.47(b)(3), 50.47(d)(1), 50.54(gg)(1)(i), and Appendix E, Sections IV.E.8., IV.E.9.c., and IV.E.9.d. Guidance documents, including NUREG–0696, ''Functional Criteria for Emergency Response Facilities,'' and NUREG–0737, ''Clarification of TMI Action Plan Requirements,'' Supplement 1, ''Requirements for Emergency Response Capabilities,'' that provide criteria for establishing and locating emergency response facilities also refer to the EOF as a near-site facility. However, the regulations and guidance do not explicitly define the term ''near-site.'' This regulatory structure has resulted in confusion for licensees with reasonable technical bases for moving or consolidating EOFs that would no longer be considered ''near-site'' and led to requests for exceptions to NRC guidance and exemptions from NRC regulations to move or consolidate their EOFs.

In addition, neither regulations nor guidance documents address the capabilities and functional requirements for a consolidated EOF, such as capabilities for handling simultaneous events at two or more sites, or having provisions for the NRC and offsite officials to relocate to a facility nearer the site if they desire. Thus, licensees have been uncertain about when they need to submit requests for exceptions or exemptions, which alternative approaches to existing EOF distance and other facility criteria may be acceptable, and what additional capabilities they need to address for a consolidated EOF. A regulatory mechanism (§ 50.54(q)) is already in place that allows licensees to make changes to their emergency plans without prior Commission approval when certain conditions are met. This mechanism could be applied to consolidation of EOFs if clearer criteria were established. In the absence of clear criteria, several recent licensee requests to consolidate EOFs have been evaluated by the NRC staff and reviewed by the Commission on a case-by-case basis.

Each nuclear power plant site is required to have an EOF where the licensee provides overall management of its resources in response to an emergency and coordinates emergency response activities with Federal, State, local, and tribal agencies. The original EOF siting criteria called for the facility to be located near the nuclear power reactor site and imposed a 20-mile upper limit (later modified by the Commission to 25 miles) for the distance between the site and the EOF. This upper limit was generally considered to be the maximum distance from the nuclear power reactor site within which face-to-face communications between the licensee, offsite officials, and NRC staff could be facilitated, and which also permitted the timely briefing and debriefing of personnel going to and from the site. However, advances in computer and communication technology after the original EOF siting criteria were established now allow EOF functions to be effectively performed independent of distance from the site. Computer-based systems allow plant parameter, meteorological data, and radiological information for multiple sites to be collected, analyzed, trended, and displayed in a remotely located facility. Data and voice communications between the EOF and other onsite/offsite emergency response facilities can be addressed through a variety of independent systems, such as microwave, telephone, internet,

intranet, and radio, which provide a high degree of availability and reliability.

Furthermore, nuclear utility consolidation has resulted in initiatives to standardize fleet emergency plans, use consolidated EOFs, and staff EOFs by designated corporate personnel. Standardized plans, implementing procedures, and accident assessment tools, such as a common dose projection model, allow emergency responders in a consolidated facility to effectively perform their functions for multiple sites, even if the EOF is not a near-site facility. Consolidated facilities eliminate the need to duplicate work space, displays, communication networks, and other capabilities for each site. Consolidated facilities can also be located at or near corporate offices where nuclear support personnel designated to fill EOF positions can respond more quickly.

The Commission, in the SRM to SECY–04–0236, ''Southern Nuclear Operating Company's Proposal to Establish a Common Emergency Operating Facility at Its Corporate Headquarters,'' dated February 23, 2005, directed the NRC staff to consider resolving these issues through rulemaking. In that SRM, the Commission approved the proposal for a consolidated EOF for three nuclear power reactor sites operated by Southern Nuclear Operating Company at the company's corporate headquarters. The Commission also instructed the NRC staff to consider making ''the requirements for EOFs more performance-based to allow other multi-plant licensees to consolidate their EOFs, if those licensees can demonstrate their emergency response strategies will adequately cope with an emergency at any one of the associated plants.''

To address the EOF ''near-site'' and consolidation issues, the NRC considered maintaining EOF distance criteria as guidance only and to specify other EOF criteria in guidance rather than in the regulations. However, providing these criteria as guidance only would not ensure that future applicants would follow the criteria. Thus, an EOF could be located within 10 miles of a site with no backup facility provided, or could be located beyond 25 miles of a site without providing a facility closer to a site for NRC site team and offsite response personnel. An EOF could be implemented without meeting the proposed performance-based criteria. A licensee could relocate or consolidate an existing approved facility without meeting all or some of the criteria and without prior NRC approval as long as the licensee determined that the provisions of § 50.54(q) were met. Under these circumstances, an EOF could be implemented that may not provide all of the capabilities that the NRC believes are necessary for such a facility to be fully effective. Therefore, the NRC determined that this option would not be appropriate.

The NRC also considered revising the regulations (and providing associated performance-based criteria) to allow an EOF to be located more than 25 miles from a nuclear power reactor site without prior NRC approval only in situations involving the consolidation of EOFs for multiple sites operated by the same licensee. However, the NRC determined that excluding licensees from the ability to locate an EOF for a single site, or to co-locate an EOF for two or more nuclear power plants operated by different licensees, at distances beyond 25 miles from a site without prior NRC approval would be unnecessarily restrictive. The capability of existing EOFs located more than 25 miles from a site to function as effective emergency response facilities has been demonstrated in numerous exercises and several actual events, indicating that the distance between the EOF and a site is not a critical factor in determining the overall effectiveness of the facility. The siting of a single-site or co-located EOF at greater distances from a nuclear power plant may also offer benefits to licensees and offsite officials in terms of increased staffing flexibility and reduced response times. Licensees may be able to use additional employees as EOF emergency responders (who would otherwise be unavailable due to long response times) when the EOF is located closer to their workplace, such as a corporate office, or areas where these employees reside. Offsite officials that report to the EOF may have shorter response times when the EOF can be located in the vicinity of government facilities, or they may be able to co-locate their emergency operations at the EOF. For these reasons, the NRC believes that the options for EOF locations should be available to all licensees as long as the EOF would meet the applicable functional requirements associated with consolidated EOFs previously approved by the NRC and licensees would provide a facility closer to the site in situations where the EOF is more than 25 miles from a site. This approach would ensure that an EOF would have the capabilities necessary to be fully effective regardless of its location with respect to the nuclear power plant site, and that provisions would be in place for a facility closer to the site for use by NRC site team and offsite responders. Therefore, the NRC is proposing changes to NRC regulations (and associated guidance) so the criteria for all EOFs would reflect a performance-based approach. The NRC is also proposing revisions to regulations (and guidance) to remove the references to an EOF as a ''near-site'' facility and to incorporate specific EOF distance criteria into the regulations, as discussed in Section V of this document.

In a conforming change, § 52.79(a)(17) would be revised to make clear that combined license applications need not address the requirement governing TSCs, OSCs and EOFs in § 50.34(f)(2)(xxv). Instead, the requirements in Appendix E, Section IV.E.8.a.(i) would apply. That section would accurately reflect the need for the combined license application to address an EOF; by contrast § 50.34(f)(2)(xxv) only requires construction permits (and not combined licenses) to address an EOF. The NRC considered, as an alternative to modifying § 52.79(a)(17), correcting § 50.34(f)(xxv) to remove the language limiting the requirement to address an EOF to construction permit applications. The NRC decided not to propose that approach, but instead have the general requirements for EP, including Appendix E, apply to combined license applications by virtue of § 52.79(a)(21).

4. Evacuation Time Estimate Updating

EP regulations at § 50.47(b)(10) and Part 50, Appendix E, Sections II.G., III., and IV. currently require nuclear power plant operating license applicants to provide evacuation time estimates (ETEs) for the public located in the plume exposure pathway EPZ. These ETEs are used in the planning process to identify potential challenges to efficient evacuation, such as traffic constraints, and, in the event of an accident, to assist the onsite and offsite emergency response managers in making appropriate decisions regarding the protection of the public. The current regulations do not require any review or revision of ETEs following the initial licensing of the plant. Although some licensees do revise ETEs based on updated census data, the use of ETEs in evacuation planning is inconsistent and they currently do not affect the development of public protective action strategies.

Nuclear power plant operating license applicants are responsible for developing the ETE analysis for their respective sites. They submit the analysis to the NRC in support of their emergency plans, usually as a stand-

alone document. Applicants include the results of the ETE analysis in the onsite emergency plan, typically in the emergency plan implementing procedures for protective action recommendations. The ETEs are also in the offsite emergency plans for the State and local governments within the plume exposure pathway EPZ. The NRC has traditionally taken the lead in reviewing the ETE analyses with the assistance of a traffic expert contractor, especially for contested licensing cases involving ETE contentions.

In NUREG/CR–6953, Vol. 1, ''Review of NUREG–0654 Supplement 3, Criteria for Protective Action Recommendations for Severe Accidents,'' the NRC presented the results of a study of its protective action recommendation guidance. The NRC concluded in the study that ETE information is important in developing public protective action strategies and should be used to identify improvements to evacuation plans. The effectiveness of protective action recommendation strategies is sensitive to the ETE, and therefore, it is important to reduce the uncertainties associated with ETEs. Improving the accuracy and quality of ETE values would help licensees recommend and offsite officials determine the most appropriate protective action. For instance, in the study, the NRC determined that for some scenarios sheltering may be more protective than immediate evacuation if the evacuation time is longer than a few hours, depending on site-specific factors. Further, the NRC concluded that the effect of population change upon evacuation times should be understood by OROs and incorporated into protective action strategies.

To address this issue, the NRC considered amending the current regulations to require licensees to assess changes to the EPZ infrastructure and population. The NRC believed that changes in infrastructure, or addition of a large subdivision to the EPZ, could also impact the ETE. The NRC consulted with Sandia National Laboratories (SNL), who are experts in emergency evacuations and have researched and drafted several NRC studies related to evacuation (e.g., NUREG/CR–6863, ''Development of Evacuation Time Estimates for Nuclear Power Plants,'' NUREG/CR–6864, ''Identification and Analysis of Factors Affecting Emergency Evacuations,'' and NUREG/CR–6953). Based upon their expert opinion, SNL confirmed that the major contributor to changes in ETE is changes in population. Although changes in infrastructure can impact the ETE, population is the more important factor.

The planning and budget cycle for infrastructure projects is measured in years, as indicated in GAO–03–764T, ''Testimony Before the Subcommittee on Transportation, Treasury and Independent Agencies, Committee on Appropriations, House of Representatives, 'Federal Aid Highways: Cost and Oversight of Major Highway and Bridge Projects—Issues and Options.' '' Within the years it takes to plan, budget, and construct highway infrastructure, the opportunity exists to include such improvements in the ETE as planned or constructed, based on the timing of the infrastructure, whereas significant population changes can occur over shorter periods of time. Therefore, with population changes as the major contributor and infrastructure changes as an enveloped contributor, the NRC determined that simplifying the regulations to explicitly require assessment of ETEs based on population changes was adequate for updates to ETEs. In the case of an infrastructure change due to a catastrophic event, the NRC already has regulations in place to ensure that licensees consult with OROs to consider the impact of offsite events on evacuation routes and ETEs.

The NRC also considered using guidance as a means to solve the problem of the lack of specificity in regulations directing applicants and licensees on the periodicity for updating ETEs. Although the availability of more detailed guidance would provide applicants and licensees with the tools to better update their ETEs, this option would not provide the regulatory means for enforcing the desired frequency of ETE updates and consistency of ETE determinations.

The NRC is proposing to amend § 50.47(b)(10) and Part 50, Appendix E, Section IV. to require the periodic review of ETEs. The NRC considered codifying that all population changes result in updates to ETEs, but determined that population changes of less than 10 percent would not significantly impact the ETE. The basis for establishing a requirement to update ETEs when the population has changed by at least 10 percent is derived from the U.S. Department of Transportation ''Highway Capacity Manual'' (HCM), which contains analysis techniques for determining the capacity of a roadway, (i.e., Level of Service (LOS)). The analysis applies a series of curves called the ''Speed Flow Curves and LOS for Basic Freeway Segments'' to roadways and determines the LOS for a given traffic volume. The analysis shows that traffic volume is a direct indicator of the population involved in an evacuation given the roadway system in the area of concern. The HCM analysis shows that an increase in 10 percent of vehicles on roadways that are near capacity (such as would be the case in an evacuation) likely creates a decrease of one level of roadway service (i.e., from Level D to Level E). This decrease in roadway service results in slower moving traffic and longer ETEs. The decrease in LOS is not apparent for a vehicle, or population, increase of less than 10 percent.

Additionally, the NRC believes that the 10 percent threshold would balance potential inadequacies and burdens. Based on the HCM analysis, SNL research, and NRC experience, not requiring licensees to assess their ETEs until the population changes by more than 15 percent or 20 percent would allow too large a population change before assessing the impact on ETEs, thereby potentially reducing the effectiveness of the ETEs. At the same time, requiring an assessment of licensee ETEs for a change in population of less than 10 percent would require licensees to make assessments when the change in population would not likely have a meaningful impact on the ETEs. Thus the NRC believes that a population change of 10 percent is the adequate threshold for requiring an assessment of licensees' ETEs.

5. Amended Emergency Plan Change Process

Applicants for operating licenses under Part 50 for nuclear power reactors, research reactors, and certain fuel facilities, and early site permits (as applicable) and combined licenses under Part 52 for nuclear power plants, are required by regulation to develop emergency plans that meet the requirements of Appendix E to Part 50 and, for nuclear power reactor license applicants, the standards of § 50.47(b). After the facility license is issued, the holder of the license is required by § 50.54(q) to follow and maintain in effect emergency plans which meet the requirements of Appendix E and, for nuclear power reactor licensees, the standards of § 50.47(b). Currently, § 50.54(q) also provides a process under which a licensee may make changes to its approved emergency plans without prior NRC approval provided the changes would not decrease the effectiveness of the emergency plans as approved and the plans, as modified, would continue to meet applicable regulations. However, the NRC has determined that the language of § 50.54(q) does not clearly describe the requirements the NRC intended to impose on licensees, leading to

confusion and inefficiencies in implementation.

A licensee must follow and maintain in effect its emergency plan if the NRC is to continue to find that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency as stipulated by § 50.54(s)(2)(ii). The EP regulations generally refer to the onsite emergency plan as a stand-alone document. However, emergency plans rely upon facility capabilities, equipment, and resources that are typically outside of the control of the licensee's emergency planning organization. The NRC has identified several occurrences in which licensee personnel outside of the emergency planning group have changed the status of capabilities and resources under their cognizance without considering the impact on the effectiveness of the emergency plan or without alerting the emergency planning group.

Several enforcement actions in the past few years have been associated with EALs being rendered ineffective by configuration changes made to instruments referenced in an EAL without the change being reflected in the EAL, or without a compensatory action being put into place. Examples include modifications to installed seismic instruments that eliminated the direct readout of acceleration needed for classifying a seismic event and changes in reactor vessel level criteria (in a boiling water reactor) being made without a conforming change being made to the EAL. In another finding, concrete barriers installed in a security-initiated change blocked a site access road required by the emergency plan to be used for site evacuation. Another licensee failed to provide adequate oversight on utility (external to the plant) personnel maintaining the site's ANS, resulting in degradation of that system and subsequent enforcement actions. Based on its experience in reviewing root cause analyses and corrective actions associated with inspection findings, the NRC believes that an underlying cause of these occurrences is often that the licensees' configuration control programs may not adequately consider the impact of configuration changes on the effectiveness of the emergency plan.

The NRC has determined that the phrase ''maintain in effect'' in § 50.54(q) is not adequately clear in conveying the NRC expectation that an effective emergency plan also requires maintaining the various capabilities and resources relied on in the plan. The phrase ''maintain in effect,'' as applied to emergency plans in § 50.54(q), has two senses: the first is that the plans are in force; the second is that the plans can achieve the desired result of providing reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. Accordingly, the NRC is proposing to amend § 50.54(q) to clarify that the regulatory intent is the latter sense by requiring licensees to follow and ''maintain the effectiveness'' of their approved emergency plans.

Currently, § 50.54(q) also provides a process under which a licensee may make changes to its approved emergency plan without prior NRC approval provided the changes would not decrease the effectiveness of the emergency plan as approved and the plan, as modified, would continue to meet applicable regulations. Prior NRC approval is required for any change that could decrease the effectiveness of the emergency plan. The NRC and licensees have experienced significant difficulties in implementing this portion of § 50.54(q) because the current rule language does not define what constitutes a decrease in effectiveness of an emergency plan nor does it identify the type of changes that would constitute a decrease in effectiveness of the plan. The lack of clear evaluation criteria has resulted in regulatory inefficiencies, such as licensees submitting for review changes that do not rise to the level requiring prior NRC approval and enforcement actions due to licensees failing to submit changes that were later deemed to warrant such a review. A large fraction of the enforcement actions in the EP Cornerstone are attributable to these findings.

The NRC has attempted to resolve this issue through the publication of regulatory guidance. In 1998, the NRC issued EPPOS–4, ''Emergency Plan and Implementing Procedure Changes,'' to provide guidance to NRC inspectors regarding their review of licensees' emergency plan changes. In 2004, the NEI submitted two white papers proposing a definition of ''decrease in effectiveness'' for NRC consideration. The NRC could not reach consensus with NEI and thus, did not endorse the NEI guidance. In 2005, the NRC withdrew EPPOS–4 and issued RIS 2005–02, ''Clarifying the Process for Making Emergency Plan Changes,'' dated February 14, 2005, to (1) clarify the meaning of ''decrease in effectiveness,'' (2) clarify the process for making changes to emergency plans, and (3) provide some examples of changes that are not decreases in effectiveness. Although RIS 2005–02 provides useful guidance, the NRC and NEI have continued to discuss ways to improve the § 50.54(q) change process, including the use of a regulatory framework parallel to that of § 50.54(a)(3) for quality assurance programs, § 50.54(p)(2) for safeguards plans, and § 50.59, ''Changes, Tests, and Experiments.''

During the development of the proposed rule language, a concern was raised regarding the process to be used by the NRC for reviewing proposed emergency plan changes. Section 50.54(q) directs the licensee to submit such changes under the provisions of § 50.4, which provides the procedures for making certain submissions to the NRC. Some confusion exists as to whether all proposed emergency plan changes submitted under § 50.4 would result in a reduction in effectiveness and whether Commission review of such submissions is necessary. The NRC proposes to clarify that the license amendment process is the correct process to use when reviewing submittals involving a proposed emergency plan change that the licensee has determined constitutes a reduction in effectiveness of the plan. The proposed rule language addresses this clarification. (See Section V of this document for further discussion.)

The NRC also considered other options for addressing the § 50.54(q) problems. Using a voluntary industry initiative was rejected because the NRC and NEI have yet to agree on the best approach to resolve the problems. Issuing more regulatory guidance was rejected because that approach has been tried but has not resolved the problems. The NRC believes that an amendment to the regulations, supplemented as necessary by regulatory guidance, would be the best course of action and would ensure that (1) the effectiveness of the emergency plans would be maintained, (2) changes to the approved emergency plan would be properly evaluated, and (3) any change that reduces the effectiveness of the plan would be reviewed by the NRC prior to implementation. The NRC proposes to issue regulatory guidance concurrently with the implementation of the amended rule language and would consider stakeholder-developed and -proposed guidance as an alternative to NRC-developed guidance.

The NRC is proposing to amend § 50.54(q) to replace the existing language. Conforming changes have been proposed in Part 50, Appendix E, Section IV.B. The NRC also believes that the proposed rule changes would promote consistent and predictable implementation and enforcement, while

minimizing inefficient and ineffective use of licensee and NRC staff resources.

6. Removal of Completed One-Time Requirements

The NRC is proposing to eliminate several regulatory provisions that required holders of licenses to take certain one-time actions to improve the state of EP following the Three Mile Island incident in 1979. These actions are complete and the requirements are no longer binding on any current licensee. Corresponding requirements for license applicants are provided in §§ 50.33 and 50.34.

The requirements proposed to be removed are:

(1) Section 50.54(r), which requires licensees of research or test reactors to submit emergency plans to the NRC for approval by September 7, 1982, and, for the facilities with an authorized power level of less than 2 MW thermal, by November 3, 1982. There is no longer a need for this provision because this requirement has expired. The NRC proposes to delete this requirement and designate the section as ''reserved.''

(2) Section 50.54(s)(1), which requires nuclear power plant licensees to submit State and local governmental emergency plans within 60 days of the November 3, 1980, effective date of the rule that added § 50.54(s)(1) to Part 50, and that date has elapsed. However, that portion of § 50.54(s)(1) that discusses the size of the EPZs would be retained. There is no longer a need for this provision because this requirement has expired. However, the rule language regarding EPZ size and footnotes 1 and 2 regarding those EPZs remain applicable. The NRC proposes to delete the obsolete text while retaining the current language regarding EPZs and footnotes 1 and 2.

(3) Section 50.54(s)(2)(i), which requires the nuclear power plant licensee, State, and local emergency response plans be implemented by April 1, 1981. There is no longer a need for this provision because this requirement has expired. The NRC proposes to delete § 50.54(s)(2)(i), designating the section as ''reserved.''

(4) Section 50.54(u), which requires nuclear power reactor licensees to submit, within 60 days of the November 3, 1980, effective date of the rule that added § 50.54(u) to Part 50, to the NRC plans for coping with emergencies that meet the standards in § 50.47(b) and the requirements of Appendix E. There is no longer a need for this provision because this requirement has expired. The NRC proposes to delete this requirement and designate the section as ''reserved.''

The NRC is proposing to eliminate these completed one-time requirements in the interest of regulatory clarity. Eliminating these requirements would not relax any currently effective regulatory requirement and would cause no regulatory burden on any current or future licensee or applicant.

III. Public and Stakeholder Input to the Proposed Rule

A. Public and Stakeholder Meetings

As part of its comprehensive assessment of the NRC's EP regulations and guidance and development of this proposed rule, the NRC staff met with internal and external stakeholders, including FEMA management, on numerous occasions including the following:

1. Meeting with NRC regional EP inspectors in January 2005 and January 2006;

2. Meetings with State, local, and Tribal governments and nuclear power industry representatives at the National Radiological Emergency Preparedness (NREP) Conference on April 11–14, 2005, March 27–30, 2006, and April 7–10, 2008;

3. Public meeting with interested stakeholders on August 31 and September 1, 2005;

4. Public meeting with non-governmental organizations (NGOs) on May 19, 2006;

5. Public meeting with the NEI/nuclear power industry representatives on July 19, 2006;

6. Regional meetings with State and local representatives and nuclear power industry working groups that started in 2007;

7. Regulatory Information Conference on March 16, 2007;

8. Public meeting with external stakeholders on March 5, 2008;

9. Meeting with nuclear power industry representatives at the 2008 NEI EP and Communications Forum; and

10. Public meeting with external stakeholders on July 8, 2008.

The NRC also met routinely with representatives of FEMA to coordinate issues of mutual interest and to keep them informed of NRC EP activities. These meetings allowed NRC and FEMA to collaborate on rulemaking and guidance issues, and to ensure alignment and regulatory consistency. In addition, FEMA attended the NRC public meetings regarding the NRC's EP rulemaking.

B. Public and Stakeholder Comments Received

At the April 11, 2005, NREP Conference, the NRC and FEMA conducted a workshop with stakeholders. The workshop covered a broad range of EP topics. Unanswered stakeholder comments and questions were recorded by NRC staff, and the NRC and FEMA responded to those questions and comments in ''Discussion of NREP 'Parking Lot' Items.''

The NRC conducted a public meeting on August 31–September 1, 2005, to obtain input regarding EP requirements and guidance for commercial nuclear power plants. The first day of meetings involved a roundtable discussion of topics related to the review of EP regulations and guidance. During the second day, the NRC staff and stakeholders addressed the ''Discussion of NREP 'Parking Lot' Items'' from the April 2005 NREP conference and other stakeholder comments and questions. The NRC requested comments in writing before the August 31–September 1, 2005, meeting and also received comments at the meeting. In addition to comments transcribed from the 2-day public meeting, the NRC accepted written comment submissions until October 31, 2005.

The NRC and FEMA responded to generic comments from the August 31–September 1, 2005, meeting and comments received thereafter in ''Summary and Analysis of Comments (Received Between August 31 and October 31, 2005).'' Site-specific comments from the public meeting were addressed in ''Summary and Analysis of Site-Specific Comments (Received Between August 31 and October 31, 2005).''

The NRC also received comments on the review of the EP regulations and guidance for nuclear power plants at public meetings with stakeholders on May 19, 2006, and July 19, 2006. The May 19, 2006, meeting was transcribed. The NRC staff informed the meeting participants that their comments would be presented to the Commission in a September 2006 SECY paper. These comments were provided to the Commission in an attachment to SECY–06–0200 and, like the stakeholder comments from 2005, were used to inform the staff's recommendations to the Commission in SECY–06–0200.

The NRC received three comment letters that focused on the draft preliminary rule language posted for comment on *http://www.regulations.gov* on February 29, 2008. One comment letter was submitted by the State of Pennsylvania, one was submitted by NEI, and one was submitted by the Union of Concerned Scientists on behalf of several NGOs. A detailed discussion of the public comments and the Commission's responses is contained in

a separate document (see Section IX of this document). The NRC also received comments on issues that are outside the scope of this proposed rule and on regulatory provisions that are not proposed to be revised in this proposed rule. The NRC determined that these comments did not support changing the scope of the proposed rule.

IV. Specific Request for Comments

In addition to the general invitation to submit comments on the proposed rule, the NRC also requests comments on the following questions:

1. Inclusion of National Incident Management System/Incident Command System in EP programs. The NRC is considering the need to integrate the National Incident Management System (NIMS) and more specifically, the Incident Command System (ICS), into licensee EP programs. On February 28, 2003, President Bush issued Homeland Security Presidential Directive 5 (HSPD–5), which directed DHS to develop and administer a NIMS. NIMS/ICS provides a consistent nationwide template to enable all government, private-sector, and NGOs to work together during domestic incidents. HSPD–5 requires Federal departments and agencies to make the adoption of NIMS by State and local organizations a condition for Federal preparedness assistance. Non-government entities, such as nuclear power plant licensees, are not required to adopt NIMS. More information about NIMS and ICS may be found at *http://www.fema.gov/emergency/nims/index.shtm.*

The NRC has observed coordination challenges during hostile action drills and observed discussions in some of the focus groups discussing the FEMA REP Program Manual with respect to the use of the ICS between onsite and offsite responders. It is likely that these issues will be addressed through lessons learned in drills and other training, but consistency across all nuclear plant sites may be an issue. The NRC is seeking comments on whether the NRC should issue regulations requiring that licensees train responders and implement the ICS to improve interface with offsite response organizations.

2. Shift staffing and augmentation. Licensees are required by § 50.47(b)(2) and Appendix E to Part 50 to maintain an ERO comprising both an on-shift emergency organization and an organization capable of augmenting the shift in a timely manner. However, the regulations state that this shift staffing for emergency response must be ''adequate'' without providing a definition of ''adequate'' and are silent with regard to what constitutes a timely augmentation. NUREG–0654 defines the measure of adequacy and divides the ERO augmentation into 30-minute and 60-minute responders. However, the guidance is not succinct, resulting in inconsistencies in ERO shift staffing and augmentation strategies among nuclear power reactor licensees.

In SECY–06–0200, the NRC staff identified shift staffing as an area of concern, noting the challenge in evaluating the adequacy of licensee shift staffing because of the lack of clarity regarding the functional requirements for emergency response. To address this issue, the NRC considered a revision to its regulations to establish functional requirements for the emergency responders instead of focusing on specific emergency responder positions. The NRC also realized that the functional requirements may be dependant upon site- and scenario-specific parameters. Consequently, the NRC attempted to design a performance-based system for identifying shift staffing needs and intended to include it in the development of a broader EP performance-based regulatory regimen. As a result, the shift staffing element was no longer considered in this rulemaking effort.

However, some stakeholders continue to express concern regarding emergency response organization staffing. The NRC recognizes that there is merit in enhancing the regulations to provide clear direction regarding adequate staffing, such as achieving regulatory stability through industry consistency and accommodating technological advancements. Toward that end, the NRC requests comments on whether the NRC should enhance its current regulations to be more explicit in the number of ERO staff necessary for nuclear power plant emergencies. When responding to this question, please consider the following draft staffing table. The table provides proposed staff functions and minimum staffing levels for the on-shift and augmenting emergency response organization. The table modifies the original guidance of NUREG–0654, Table B–1 with lessons learned from several years of EP program inspections by the NRC.

On-shift[1]	*Augment w/in 60 min.*[1]	*Augment w/in 90 min.*[1 2]
Emergency Director (1) (Shift Manager): • Responsible for overall ERO Command & Control until relieved. • Responsible for approving event classifications and PARs until relieved.	*Emergency Director (1) (TSC):* • Responsible for overall ERO Command & Control until relieved. • Responsible for approving event classifications and PARs until relieved.	*Emergency Director (1) (EOF):* • Responsible for overall ERO Command & Control. • Responsible for approving PARs.
Communicator (1): • Responsible for communicating event classifications and PARs to offsite agencies, including the NRC.	*Communicator (1) (TSC) [In addition to the one already on-shift]:* • Assume responsibility for either ORO or NRC communications from on-shift Communicator.	*Communicator (1) (EOF):* • Assumes responsibility for communicating PARs, as well as plant updates, to the NRC (HPN).
Qualified Health Physics Personnel (2):[3] • Responsible for providing Health Physics coverage to the on-shift staff.	*Site Radiation Protection Coordinator (SRPC) (1) (TSC):* • Responsible for evaluating and assessing plant and offsite data in the development of onsite protective actions and offsite PARs. • Responsible for recommending onsite and offsite PARs to the Emergency Director. • Responsible for all Radiation Protection activities, including Field Team direction.	*Site Radiation Protection Director (SRPD) (1) (EOF):* • Responsible for evaluating and assessing plant and offsite data in the development of offsite PARs. • Responsible for recommending offsite PARs to the Emergency Director. • Responsible for Field Team direction.

On-shift[1]	*Augment w/in 60 min.*[1]	*Augment w/in 90 min.*[1 2]
Dose Projections (1): • Responsible for providing dose projections to the Emergency Director for PAR determinations, until relieved.	*Additional Qualified Health Physics Technicians [In addition to the personnel already on-shift] (OSC):* • (4) Responsible for providing Health Physics coverage for OSC personnel in the plant. • (2) Responsible for plant surveys. • (1) Responsible for controlling dosimetry issuance and maintaining plant access control for radiologically controlled areas.	*Additional Qualified Health Physics Technicians [In addition to the personnel already on-site] (OSC):* • (2) Responsible for providing health physics support for the emergency response organization.
EAL Classifications/PARs (1):[4] • Responsible for evaluating plant conditions and dose projections and recommending event classifications and PARs to the Emergency Director, until relieved.	*Dose Projections (1) (TSC):* • Responsible for providing dose projections to the SRPC for PAR determinations.	*Dose Projections (1) (EOF):* • Responsible for providing dose projections to the SRPD for PAR determinations.
Core/Thermal Hydraulics Eng (1):[4] • Responsible for evaluating reactor conditions and providing input to the Emergency Director until relieved.	*Event Classifications (1) (TSC):* • Responsible for evaluating plant conditions and recommending event classifications to the Emergency Director.	*Off-Site Field Team B:* • (1) Qualified Radiation Monitor responsible for assessing environ radiation/contamination and providing input to SRPC. Also responsible for providing Health Physics coverage for team. • (1) Driver responsible for transportation.
Fire Brigade as Defined by Tech Specs: The Fire Brigade is controlled by the site-specific Technical Specifications.	*Core/Thermal Hydraulics/PRA Engineer (1) (TSC):* • Responsible for evaluating reactor conditions and providing input to the Emergency Director. • Responsible for evaluating plant system status and providing PRA input to the Emergency Director.	*OSC Supervisors (4):* • (1) Electrical: Responsible for supervising OSC activities related to electrical equipment. • (1) Mechanical: Responsible for supervising OSC activities related to mechanical equipment. • (1) I&C: Responsible for supervising OSC activities related to IC equipment. • (1) HP: Responsible for supervising OSC activities related to radiation protection.
Ops Crew as Defined by Tech Specs: Number of Operators on-shift is controlled by the site-specific Technical Specifications.	*Maintenance (OSC) (1 electrician, 1 mechanic; 1 I&C):* • (1) Electrician: Responsible for providing electrical support for ECCS equipment, event mitigation, and equipment repair. • (1) Mechanic: Responsible for providing mechanical support for ECCS equipment, event mitigation, and equipment repair. • (1) I&C Technician: Responsible for providing assist with logic manipulation, for providing I&C support for event mitigation and equipment repair, and for support of digital I&C if applicable.	*IT Lead (1) (TSC):* • For sites with digital I&C: Responsible for assisting in ensuring that the digital I&C equipment operates properly.
	On-Site Field Team (1 qualified radiation monitor and 1 driver): • (1) Radiation Monitor responsible for assessing environ radiation/contamination and providing input to SRPC. Also responsible for providing Health Physics coverage for team. • (1) Driver responsible for transportation. *Off-Site Field Team A:* • (1) Qualified Radiation Monitor responsible for assessing environmental radiation/contamination and providing input to SRPC. Also responsible for providing Health Physics coverage for team. • (1) Driver responsible for transportation. *TSC Engineering:* • (1) Electrical/I&C: Responsible for providing engineering coverage for the ERO related to electrical or I&C equipment. • (1) Mechanical: Responsible for providing engineering coverage for the ERO related to mechanical equipment.	*Joint Information Center Manager (JIC):* • (1) Responsible for managing and coordinating media information related to the event.

On-shift[1]	*Augment w/in 60 min.*[1]	*Augment w/in 90 min.*[1 2]
	Lead OSC Supervisor (1): • Responsible for OSC activities as directed by Emergency Director. *Security Supervisor (1) (TSC):* • Responsible for coordinating security-related activities and information with the Emergency Director.	

Notes:
1. No collateral duties are assigned to an individual that are beyond the capability of that individual to perform at any given time.
2. Specified TSC/OSC personnel must be performing their required functions within 60 (90) minutes of an Alert or higher event classification. Specified EOF/JIC personnel must be performing their required functions within 90 minutes of a Site Area Emergency or higher event classification.
3. Two qualified Health Physics personnel for a single-unit site, or one per unit for a multi-unit site.
4. Could be the STA if justification for collateral duties supports additional responsibilities.

3. Expanding to non-power reactor licensees a requirement for detailed analyses demonstrating timely performance of emergency response functions by on-shift personnel. The NRC is proposing to require nuclear power reactor licensees to demonstrate through detailed analyses that on-shift personnel can perform all assigned emergency plan implementation functions without having competing responsibilities that could prevent them from performing their emergency plan functions. The NRC is seeking comments on whether it is necessary to add a requirement for non-power reactor licensees (i.e., research and test reactor licensees) to include in their emergency plans detailed analyses demonstrating that on-shift personnel can perform all assigned emergency plan implementation functions in a timely manner without having competing responsibilities that could prevent them from performing their emergency plan functions.

4. Expanding to non-power reactor licensees a requirement for the capability to assess, classify, and declare an emergency condition within 15 minutes and a requirement to promptly declare an emergency condition. The NRC proposes to require nuclear power reactor licensees to establish and maintain the capability to assess, classify, and declare an emergency condition within 15 minutes after the availability of indications to plant operators that an EAL has been exceeded, and to also require that an emergency condition be promptly declared as soon as possible following a determination that an EAL has been exceeded. The NRC is considering whether it is necessary to add the emergency declaration timeliness criteria for non-power reactor licensees. The NRC is seeking comments on whether to issue regulations requiring that non-power reactor licensees meet these criteria.

5. Expanding to non-power reactor licensees a requirement for hostile action event EALs. The NRC is proposing that EALs for nuclear power plants must address hostile action events. The proposed rule regarding EALs would not apply to non-power reactors because the EALs for these reactors are generally based on projected or actual offsite dose and not an initiating event. However, hostile action directed toward a non-power reactor is an initiating event that could conceivably cause an offsite dose. The NRC is seeking comments on whether the NRC should issue regulations requiring that non-power reactor licensees include hostile action event EALs in their emergency plans.

6. Effective date. As proposed, the effective date of this rule would be 30 days after publication of the final rule in the **Federal Register**, with an option for a licensee or applicant to defer implementation until 180 days after publication of the final rule in the **Federal Register** (with certain exceptions). The NRC is concerned that combined license (COL) and early site permit (ESP) applicants would need to submit timely revisions to docketed applications, to avoid schedule impacts to application reviews, in order to comply with the proposed amendments should they become final before the staff's licensing review is complete. The NRC is seeking comments on how COL and ESP applicants would implement this rule as proposed, including any impacts to the process and schedule for the applicant to submit and the NRC to review those revisions to COL or ESP applications.

7. Implementation Schedule. As proposed, each element of the proposed rule would be implemented on a schedule that may vary from approximately 30 days to 3 years. The wide variance in the proposed implementation schedule is a result of the varying degree of difficulty and scheduling problems for some elements including the need for analysis, development of processes, procurement of equipment/facilities, and/or coordination with offsite response organizations. The NRC is concerned that the proposed implementation schedule may not be appropriate for some offsite response organizations and licensees. The NRC is seeking comments regarding the appropriateness of the proposed implementation schedule.

V. Section-by-Section Analysis

The Commission is proposing to amend portions of § 50.47, ''Emergency plans,'' § 50.54, ''Conditions of licenses;'' Part 50, Appendix E, ''Emergency Planning and Preparedness for Production and Utilization Facilities;'' and § 52.79, ''Contents of applications; technical information in final safety analysis report.''

Section 50.47 Emergency Plans

The NRC is proposing to amend § 50.47(b)(3) to remove the reference to the EOF as a ''near-site'' facility. Criteria would be provided in Part 50, Appendix E, Section IV.E.8. regarding EOF distance from a nuclear power reactor site and for a performance-based approach for EOFs, specifying that these facilities would need to meet certain functional requirements rather than requiring that they be located within a certain distance of the plant. The intent of this change is discussed in the section on proposed changes to Appendix E, Section IV.E.8. (A discussion of this issue is also provided in Section II.B.3 of this document.)

The NRC is proposing to amend § 50.47(b)(10) to require licensees to review and update their ETEs periodically and submit them to the NRC for review and approval. Proposed changes to Appendix E to Part 50 would provide the required frequency and details of the ETE updates and submissions. Although requirements for ETEs are found in both § 50.47(b) and in Appendix E to Part 50, the level of

detail between them greatly differs. Section 50.47(b) establishes the EP planning standards that licensees must meet, whereas Appendix E sets forth more detailed implementation requirements. (A discussion of this issue is also provided in Section II.B.4 of this document.)

This new requirement would ensure that ETEs are reviewed periodically to determine whether population changes have caused significant changes in the ETE. NRC review of ETE updates would ensure they are performed routinely, are consistent across the industry, and are technically sound. NRC guidance would provide more details of NRC expectations for development of an adequate ETE, as well as provide NRC reviewers with guidance on the review of ETE updates. The NRC would expect that the updated ETEs would be shared with OROs to be incorporated into protective action strategies.

The NRC is proposing to amend § 50.47(d)(1) to remove the reference to the EOF as a ''near-site'' facility. Criteria would be provided in Part 50, Appendix E, Section IV.E.8. regarding EOF distance from a nuclear power reactor site and for a performance-based approach for EOFs, specifying that these facilities would need to meet certain functional requirements rather than requiring that they be located within a certain distance of the plant. The intent of this change is discussed in the section on proposed changes to Appendix E, Section IV.E.8. (A discussion of this issue is also provided in Section II.B.3 of this document.)

Section 50.54 Conditions of Licenses

The NRC proposes to revise § 50.54(q) in its entirety. Proposed § 50.54(q)(1) would define four terms whose meanings would be limited to application within the proposed § 50.54(q). Proposed § 50.54(q)(1)(i) would define a ''change'' to the emergency plan as an action that results in modification or addition to, or removal from, the licensee's emergency plan or the resources, capabilities, and methods identified in the emergency plan. Thus, a change to the emergency plan would not be limited to revisions to the document labeled ''emergency plan.'' For example, a proposed plant configuration change that removes a seismic instrument relied upon in the emergency plan as an EAL threshold would be encompassed by this definition. The last sentence in this definition calls attention to the possibility that other regulatory change processes may be applicable. In the example above, the plant configuration change would likely be subject to the requirements of § 50.59 and a technical specification change may also be involved. (A discussion of this issue is also provided in Section II.B.5 of this document.)

The proposed § 50.54(q)(1)(ii) definition of ''Emergency plan'' would encompass any document that describes the programmatic methods that the licensee uses to maintain and perform emergency planning functions and to demonstrate compliance with the requirements of Appendix E, and for nuclear power reactors, the planning standards of § 50.47(b). Under the proposed § 50.54(q), sub-tier documents, such as emergency plan implementing procedures, would not ordinarily be subject to the § 50.54(q) change process because these procedures generally only provide instructions in performing the programmatic methods identified and described in the emergency plan. This would be consistent with the current § 50.54(q) requirements. However, if a license were to relocate a programmatic description to another document, that description would remain subject to the proposed § 50.54(q) change process. For example, if a licensee were to relocate the details of its emergency classification scheme from the emergency plan to a wall chart posted in the control room, the wall chart would be subject to the proposed § 50.54(q) change process. The definition would also emphasize, by incorporation, the role of the licensee's original emergency plan approved by the NRC in minimizing the likelihood that a series of incremental changes over time will constitute a reduction in effectiveness of the original approved emergency plan.

Proposed § 50.54(q)(1)(iii) would define the term ''emergency planning function'' in terms of a capability or resource necessary to prepare for and respond to a radiological emergency. During the development of the EP Cornerstone of the ROP, a group of EP subject matter experts, including NRC staff and nuclear power industry stakeholders, with input from the public, developed a series of planning standard functions that would be used in determining the significance of inspection findings. These planning standard functions are paraphrases of the broadly worded § 50.47(b) planning standards and the corresponding requirements in Appendix E to Part 50 in terms of the significant functions that need to be accomplished, or the capabilities that need to be in place, to maintain the effectiveness of a licensee's emergency plan and emergency response capability. Within the EP Cornerstone, the significance of inspection findings depends on whether the planning standards can be accomplished (i.e., loss of planning standard function) or can be accomplished only in a degraded manner (i.e., degraded planning standard function). The characterization of a reduction in effectiveness in the proposed rule would capitalize on this earlier effort in that any degradation or loss of a planning standard function would be deemed to constitute a reduction in effectiveness. The NRC is proposing to use the phrase ''emergency planning function'' in lieu of ''planning standard function'' as used in the ROP to allow the definition to be applicable to licensed facilities that are subject to Appendix E, but are not subject to the planning standards of § 50.47(b). The emergency planning functions would be established in regulatory guidance along with examples of typical emergency plan changes that would be expected to constitute a reduction in effectiveness and examples of changes that would not.

The emergency planning functions would not replace or supplement the regulations upon which they would be based and as such, compliance with these functions would not be required. They would be only used to differentiate between changes that the licensee would be allowed to make without prior NRC approval and those that would require prior NRC approval. The NRC would not establish these emergency planning functions in regulations because the underlying regulations already exist, and the expression of the emergency planning functions would differ between nuclear power reactors, non-power reactors, and fuel facilities licensed under Part 50 or Part 52. A draft regulatory guide that discusses these emergency planning functions for nuclear power reactors has been prepared and will be made available for public comment in conjunction with this proposed rule.

Proposed § 50.54(q)(1)(iv) would define the term ''reduction in effectiveness'' as a change to the emergency plan that results in a reduction of the licensee's capability to perform an emergency planning function in the event of a radiological emergency. The phrase ''reduction in effectiveness'' would be an evaluation concept that would be used in proposed § 50.54(q) to differentiate between changes that the licensee would be allowed to make without prior NRC approval and those that would require prior NRC approval. A determination that a change may result in a reduction in effectiveness does not imply that the licensee could no longer implement its

plan and provide adequate measures for the protection of the public. The NRC may approve a proposed emergency plan change that the licensee determined to be a reduction in effectiveness, if the NRC can find that the emergency plan, as modified, would continue to meet the requirements of Appendix E, and for nuclear power reactor licensees, the planning standards of § 50.47(b), and would continue to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. ''Radiological emergency'' as used in the proposed § 50.54(q)(1)(iv), would mean any condition that would result in the declaration of any emergency classification level and the implementation of the licensee's emergency plan. A nuclear power reactor licensee evaluating whether a particular emergency plan change would constitute a reduction in effectiveness would be expected to consider the spectrum of accidents addressed in the planning basis described in NUREG–0654. In making this determination, licensees of non-power reactors and fuel facilities licensed under Part 50 would base their evaluations on the planning bases for their respective facilities.

Current regulations in Parts 50 and 52 require applicants for licenses to develop emergency plans that meet the requirements of Appendix E, and for nuclear power reactors, § 50.47(b), as applicable, during facility licensing. A holder of a license under Part 50 or a combined license under Part 52 after the Commission makes the finding under § 52.103(g) would be required by proposed § 50.54(q)(2) to follow and maintain the effectiveness of its emergency plan, as originally approved. The proposed § 50.54(q)(2) references to Appendix E and § 50.47(b), as applicable, would extend the applicability of these requirements as a condition of the facility license (as does the current language in § 50.54(q)). The NRC would expect licensees to identify conditions and situations which could reduce the effectiveness of its emergency plan, and to take corrective and/or compensatory actions to restore and maintain the requisite effectiveness.

Proposed § 50.54(q)(3) would grant authority to the holder of a license to make changes to its emergency plan without prior NRC approval only if an analysis demonstrates that the changes do not reduce the effectiveness of the plan and the plan, as changed, continues to meet the requirements in Appendix E, and for nuclear power reactor licensees, § 50.47(b). The reference to Appendix E and § 50.47(b), as applicable, in this paragraph, would serve to exclude any change for which the licensee must request an exemption from requirements under § 50.12.

The NRC would expect a licensee considering a change under this section to perform an evaluation of the change to a level of rigor and thoroughness consistent with the scope of the proposed change. A licensee's analysis of the impact of a change on the effectiveness of the plan would need to consider the accidents included in the emergency planning basis, the licensing basis of the particular emergency plan, and any emergency plan elements implemented to address site-specific emergency response constraints (e.g., delay in staff augmentation associated with a remote site, commitments to State or local governments, existence of significant external hazards, etc.).

Proposed § 50.54(q)(4) would define the process by which a licensee would request prior approval of a change to the emergency plan that the licensee has determined constitutes a reduction in effectiveness of the plan. Licensees pursuing these changes would be required to apply for an amendment to the license as provided in § 50.90. Courts have found that Commission actions that expand licensees' authority under their licenses without formally amending the licenses constitute license amendments and should be processed through the Commission's license amendment procedures. (See *Citizens Awareness Network, Inc.* v. *NRC,* 59 F.3d 284 (1st Cir. 1995); *Sholly* v. *NRC,* 651 F.2d 780 (D.C. Cir. 1980) (*per curiam*), *vacated on other grounds,* 459 U.S. 1194 (1983); and *in re Three Mile Island Alert,* 771 F.2d 720, 729 (3rd Cir. 1985), *cert. denied,* 475 U.S. 1082 (1986). *See also Cleveland Electric Illuminating Co.* (Perry Nuclear Power Plant, Unit 1), CLI–96–13, 44 NRC 315 (1996)). A proposed emergency plan change that would reduce the effectiveness of the plan would give the licensee a capability to operate at a level of effectiveness that was not previously authorized by the NRC. In this situation, the licensee's operating authority would be expanded beyond the authority granted by the NRC as reflected in the emergency plan without the proposed change. Thus, an emergency plan change that would reduce the effectiveness of the plan would expand the licensee's operating authority under its license. A change expanding the licensee's operating authority is, according to the courts, a license amendment and must be accomplished through a license amendment process.

In addition to satisfying the filing requirements for a license amendment request in § 50.90 and § 50.91, the proposed § 50.54(q)(4) request would include all emergency plan pages affected by the change, a forwarding letter identifying the change, the reason for the change, and the basis for concluding that the licensee's emergency plan, as revised, will continue to meet the requirements of Appendix E, and for nuclear power reactor licensees, the planning standards of § 50.47(b). The NRC would review the amendment application to make its no significant hazards consideration determination and to determine if the emergency plan, as modified, is a reduction in effectiveness under § 50.54(q) and continues to meet the requirements in Appendix E, and for nuclear power reactors, the planning standards of § 50.47(b).

Proposed § 50.54(q)(5) would apply to all licensees subject to § 50.54(q) and require that licensees retain a record of all changes to the emergency plans made without prior NRC approval for a period of three years from the date of change. The section would also require the licensee to submit, as specified under § 50.4, a report of each such change, including its evaluation, within 30 days of the change. The NRC expects that the record of changes would include documentation of the evaluation that determined the change not to be a reduction in effectiveness. The NRC would use this record of changes during inspection oversight of the licensee's implementation of proposed § 50.54(q)(2).

Proposed § 50.54(q)(6) would require a licensee of a nuclear power reactor to retain the emergency plan and each change for which prior NRC approval was obtained under proposed § 50.54(q)(4) as a record until the Commission terminates the license.

The NRC proposes to remove paragraph (r) of § 50.54. Section 50.54(r) was published as a final rule on August 19, 1980 (45 FR 55402) to require then-existing licensees authorized to possess and/or operate a research or test reactor facility to submit emergency plans complying with Appendix E to Part 50 to the NRC for approval within one year or two years, as applicable, from the effective date of the rule (November 3, 1980). (A discussion of this issue is also provided in Section II.B.6 of this document.)

The NRC proposes to amend § 50.54 by revising § 50.54(s)(1) to remove language addressing a one-time requirement that has now been completed. Section 50.54(s)(1) was published as a final rule on August 19,

1980 (45 FR 55402). This provision required existing nuclear power reactor licensees to submit to the NRC within 60 days after the effective date of the rule (November 3, 1980), the radiological response plans of State and local governmental entities in the United States that are wholly or partially within a plume exposure pathway EPZ, as well as the plans of State governments wholly or partially within an ingestion pathway EPZ. Section 50.54(s)(1) continued to further establish the size of the two EPZs. (A discussion of this issue is also provided in Section II.B.6 of this document.)

The NRC proposes to remove paragraph (s)(2)(i) from § 50.54. Section 50.54(s)(2) was initially published as a final rule on August 19, 1980 (45 FR 55402) as a single paragraph. The rule was amended on May 29, 1981 (46 FR 28838), resulting in § 50.54(s)(2) being split into two paragraphs, §§ 50.54(s)(2)(i) and 50.54(s)(2)(ii). The rule language in § 50.54(s)(2)(i) requires that the licensee, State, and local emergency plans for all operating power reactors be implemented by April 1, 1981, except as provided in Section IV.D.3. of Appendix E to Part 50. (A discussion of this issue is also provided in Section II.B.6 of this document.)

The NRC proposes to remove paragraph (u) from § 50.54. Section 50.54(u) was published as a final rule on August 19, 1980 (45 FR 55402) to require then-existing nuclear power reactor licensees to submit to the NRC plans for coping with emergencies that meet the standards in § 50.47(b) and the requirements of Appendix E to Part 50 within 60 days after the effective date of the rule (November 3, 1980). (A discussion of this issue is also provided in Section II.B.6 of this document.)

The NRC is proposing to revise paragraphs (gg)(1) and (gg)(2) of § 50.54 to replace ''DHS'' with ''FEMA.'' Although FEMA remains within DHS, the responsibility for offsite EP for nuclear power plants is with FEMA. FEMA has requested that ''FEMA'' be used rather than ''DHS'' for clarity of communication with stakeholders.

The NRC is proposing to amend § 50.54(gg)(1)(i) to remove the reference to the EOF as a ''near-site'' facility. Criteria would be provided in Part 50, Appendix E, Section IV.E.8. regarding EOF distance from a nuclear power reactor site and for a performance-based approach for EOFs, specifying that these facilities would need to meet certain functional requirements rather than requiring that they be located within a certain distance of the plant. The intent of this change is discussed in the section on proposed changes to Appendix E, Section IV.E.8. (A discussion of this issue is also provided in Section II.B.3 of this document.)

Appendix E to Part 50, Emergency Planning and Preparedness for Production and Utilization Facilities

The NRC is proposing to amend several paragraphs within Section IV. of Appendix E to Part 50 that would apply to licensees and applicants for licenses under Part 50 or Part 52 of this chapter, as applicable. The NRC would amend the first paragraph of Section IV. by adding language to require nuclear power reactor licensees and license applicants to revise their ETEs when the decennial census data is available. The proposed regulation would require that within 180 days of the issuance of the 2010 decennial census data (expected to be available in 2011), ETE revisions be submitted to the NRC under § 50.4 for review and approval. The NRC would establish a schedule for review and approval of the updated ETEs. Thereafter, nuclear power reactor licensees and license applicants would be required to annually review changes in the population of their EPZ and most populous Emergency Response Planning Area (ERPA). ERPAs are local areas, typically defined by geographic or political boundaries that are used to communicate protective actions to members of the public in familiar geographic terms. When the new population, including permanent residents and transient populations, in either the EPZ or most populous ERPA would be less than 90 percent or greater than 110 percent of the population that formed the basis for the currently approved ETE, the licensee or applicant would be required to update the ETE to reflect the impact of this population change. The licensee or applicant would be required to submit the updated ETE to the NRC under the procedures of § 50.4 within 180 days of the availability of the population data used in the update. (A discussion of this issue is also provided in Section II.B.4 of this document.)

The NRC proposes to require licensees and applicants to review changes in the population of the EPZ and the most populous ERPA because population density in an EPZ is generally not homogeneous and EPZ evacuation times are significantly influenced by the ERPA with the largest population. The NRC considered requiring review of all ERPAs or the review of individual counties and States in addition to the whole EPZ. Review of the ERPA with the largest population was considered to be a reasonable balance between the burden on licensees and applicants and the need to ensure that the ETE is accurate because the ERPA with the largest population is generally the one with the most impact on evacuation times.

The proposed requirement for nuclear power reactor licensees to evaluate a population change impact on the ETE during the period between decennial censuses would balance the burden on licensees and the expected rates of change among the relevant populations. The U.S. Census Bureau currently projects population growth at approximately one percent per year in the United States. However, certain areas experience much greater growth. The population of Maricopa County, Arizona, for example, experienced approximately 6.4 percent growth in the two-year period from 2005 to 2007. The Palo Verde Nuclear Generating Station is located in Maricopa County. St. Lucie County in Florida, where the St. Lucie Nuclear Plant is located, experienced approximately 9.7 percent population growth in the same period. A nuclear plant's EPZ population may not grow at the same rate as the corresponding county(ies) population, but a review of population growth would be appropriate, as discussed in Section II.B.4 of this document. The review would consist of analysis of population growth based on either U.S. Census Bureau data (e.g., Subcounty Population Datasets for population estimates) or State/local government estimates and would examine the whole EPZ as well as the most populous emergency planning area within the EPZ. If an ETE revision were necessary, it would be submitted to the NRC under the provisions of § 50.4 for review and approval. The NRC would review the ETEs to ensure they were consistent with NRC guidance on the development of ETEs that would be expected to be issued with the final rule.

The updated ETEs would allow for more effective development of public protective action strategies and review of evacuation planning. Sites with little population change would be minimally impacted by the proposed requirement, while those sites with a greater rate of population change would be required to perform more frequent updates. Licensees would also be expected to identify and analyze potential enhancements to improve evacuation times and document whether implementation was appropriate.

The NRC is also proposing to revise the first paragraph of Section IV. to change the term ''radiation'' to ''radiological,'' to provide consistent use of the phrase ''radiological emergency.'' It is also clarifying in this paragraph that

the requirements for the submittal of emergency response plans apply to not only applicants for nuclear power reactor operating license applicants under Part 50, but also to applicants for early site permits (as applicable) and combined licenses under Part 52. This clarification was intended for but inadvertently omitted from a rulemaking to update Part 52 (72 FR 49517, dated August 28, 2007).

The NRC is proposing to make two editorial revisions to Appendix E to Part 50, Section IV.A.2. One change would be to include the abbreviation of emergency response organization, ''ERO,'' in paragraph 2 of Section IV.A. The second revision would clarify that paragraph 2.c. should read as follows: ''Authorities, responsibilities, and duties of an onsite emergency coordinator. * * *''

The NRC is proposing to amend Part 50, Appendix E, Section IV.A.7. to require licensees to confirm that ORO resources, such as local law enforcement, firefighting, and medical services, are available to respond to an emergency, including a hostile action event, at the plant site. Currently, the regulations do not explicitly require the licensee to take action to ensure that OROs are capable of adequately responding to the site during a hostile action event. This new requirement would require licensee coordination with the OROs to ensure that licensees and OROs are able to effectively implement their pre-planned actions for any contingency, including hostile action events as required by Order EA–02–026. This requirement would be enforced through routine inspection and observation of emergency exercises. (A discussion of this issue is also provided in Section II.A.4 of this document.)

The proposed requirement would also contain a new footnote, which would define ''hostile action'' as an act directed toward a nuclear power plant or its personnel that includes the use of violent force to destroy equipment, take hostages, and/or intimidate the licensee to achieve an end. This includes attack by air, land, or water using guns, explosives, projectiles, vehicles, or other devices used to deliver destructive force.

The NRC is proposing to add a new paragraph A.9. in Section IV. of Appendix E to Part 50. This new paragraph would require nuclear power plant licensees under this part and Part 52 to provide a detailed analysis to show that on-shift personnel assigned emergency plan implementation functions are not assigned any responsibilities that would prevent them from performing their assigned emergency plan functions when needed. This proposed amendment would constitute a new requirement. The proposed rule would not specify, by position or function, which responsibilities must be assigned, but would allow licensees the flexibility to determine the limit of assigned responsibilities for effective emergency plan implementation on a site-specific basis. This would allow licensees to take credit for new technologies that could potentially affect the number of on-shift staff that would be needed. However, licensees would need to ensure that the duties assigned to on-shift staff were reasonable for one person to perform and would not be so burdensome as to negatively impact emergency response. (A discussion of this issue is also provided in Section II.A.1 of this document.)

The licensees would have to perform a detailed analysis, such as a job task analysis (JTA) or a time motion analysis, to demonstrate that on-shift personnel could implement the plan effectively without having competing responsibilities that could prevent them from performing their primary emergency plan tasks. The NRC would expect the analysis to identify all the tasks which must be performed by available staff during an evolution such as response to an emergency.

Licensees would first need to identify the spectrum of accidents defined in their licensing bases (i.e., design basis accidents (DBAs), as well as the DBT, as applicable), for which there must be emergency planning. The analysis would identify all tasks which must be completed for each DBA and the DBT, as applicable, and the responders responsible for the performance of those tasks. Then licensees would ensure that there would be sufficient on-shift staff to perform all necessary tasks until augmentation staff arrives to provide assistance. Enhancing the regulations to require licensees to ensure that multiple responsibilities assigned to on-shift staff would not detract from adequate emergency plan implementation would establish a regulatory framework that more clearly codifies the NRC's shift staffing expectations for effective emergency response.

The NRC proposes to amend Section IV.B. of Appendix E to Part 50 to add a requirement that nuclear power reactor licensees and license applicants would take hostile action events, which may adversely affect the plant (e.g., cause personnel harm and/or equipment damage), into account in their EAL schemes. It would also serve to establish consistent EALs for hostile action events among existing and future nuclear power reactor licensees and allow the licensees to make hostile action emergency declarations based on a credible threat. (A discussion of this issue is also provided in Section II.A.2 of this document.)

The proposed language would also make changes to conform to proposed changes to § 50.54(q), which address the issue described in Section II.B.5 of this document. The current requirement in paragraph (1) in Section IV.B. of Appendix E that licensees obtain prior NRC approval via § 50.4 for changes to an EAL scheme from NUREG–0654 to one based on NUMARC/NESP–007 or NEI 99–01 would be retained, but the paragraph numbering would be removed. Paragraphs (2) and (3) would be deleted and replaced with a new requirement that all other EAL changes would be required to be made under the proposed amended § 50.54(q) change process, as discussed earlier in Section V of this document. The two remaining paragraphs in this section would be designated B.1. and B.2.

The NRC proposes to retain the existing language of Section IV.C. of Appendix E to Part 50, redesignate that language as paragraph C.1., and add a new paragraph C.2. Proposed paragraph C.2.would require that nuclear power plant licensees and applicants under this part and Part 52 have and maintain the capability to assess, classify, and declare an emergency condition within 15 minutes after the availability of indications to plant operators that an emergency action level has been exceeded and will promptly declare the emergency condition upon determining that an emergency action level has been exceeded. The NRC believes that the amended language would emphasize the NRC's expectations regarding the timeliness of emergency declarations while retaining sufficient operational flexibility to respond to extenuating circumstances necessary to protect public health and safety. The NRC would consider the 15-minute criterion to commence when plant instrumentation, plant alarms, computer displays, or incoming verbal reports that correspond to an EAL become available to cognizant personnel within the control room, or in another emergency facility in which emergency declarations are performed. On receipt of such information, the licensee personnel would assess the data for validity and compare the indications to the EALs in the licensee's emergency classification scheme. (A discussion of this issue is also provided in Section II.B.2 of this document.)

This 15-minute criterion would end as soon as the licensee determines that

an EAL has been exceeded and the licensee makes the emergency declaration. The proposed rule would also require the licensee to promptly declare the emergency condition as soon as the licensee determined that an EAL had been exceeded. Because the NRC would require emergency declarations to be made promptly, the proposed rule states that the 15-minute criterion is not to be construed as a grace period in which a licensee may attempt to restore plant conditions to avoid declaring an EAL that has already been exceeded. If the EAL threshold specifies a duration (e.g., ''fire lasting for greater than 10 minutes from detection''), the NRC would expect the licensee to assess and classify the event concurrently with the specified condition duration. The licensee would then be required to promptly declare the emergency condition as soon as the specified duration has been exceeded. The licensee would be expected, but not required, to declare the emergency condition once it has been determined that the condition cannot be corrected before the specified duration is exceeded.

The NRC is proposing a capability criterion, rather than an inflexible performance criterion, to allow licensees some degree of flexibility in addressing extenuating circumstances that may arise during an actual emergency. For example, an emergency declaration may need to be delayed in the interest of performing plant operations that are urgently needed to protect public health and safety. These delays would be found acceptable if they did not deny State and local authorities the opportunity to implement actions to protect the public health or safety under their emergency plans and the cause of the delay was not reasonably within the licensee's ability to foresee and prevent.

The NRC is proposing to add language to Section IV.D.3. of Appendix E to require licensees and applicants to have backup ANS methods for both the alert and notification functions without specifying which backup measures should be used. This approach would allow flexibility in the selection of the method best suited for each site and would also allow the use of newer technologies or other alternative methods. Available backup ANS methods would enhance the public's ability to be promptly alerted of an event at a facility and of possible protective actions. (A discussion of this issue is also provided in Section II.B.1 of this document.)

Section IV.D.3. of Appendix E currently acknowledges that, for the events more likely to warrant use of the alert and notification capability, State and local officials will have substantial time available to make a judgment regarding activation of the warning system to alert and notify the public. Accordingly, the proposed amendment would not impose specific time requirements for using a backup method. The alerting function could involve one or more methods that are already used as a backup means at several sites, such as multiple, independent siren activation points in conjunction with siren backup power, route alerting, reverse call-out systems or newer technologies, such as intelligent notification and communication systems for notifying targeted populations. The notification function could involve the designation of multiple EAS broadcast stations or use of weather alert radios or newer technologies, such as advanced messaging systems. Guidance would be provided for determining the acceptability of the backup methods based on the alerting and notification capabilities of the methods selected, administrative provisions for implementing and maintaining backup methods, identification of resources to implement backup methods, and periodic demonstration of the backup methods. Guidance would also be provided to licensees and offsite officials regarding the need to ensure that the backup methods could alert and notify the public in the entire plume exposure pathway EPZ, that the personnel and resources required to implement the backup methods would be available during any type of emergency (including hostile action events), and that designated personnel know how to implement backup methods.

The backup method of alerting and notification would be capable of providing warning signals and instructional messages to the population in the entire plume exposure pathway EPZ when the primary ANS is unavailable during an emergency (i.e., the primary ANS cannot alert or notify all or portions of the plume exposure pathway EPZ population). The backup means could be designed so that it can be implemented using a phased approach in which the populations most at risk are alerted and notified first, followed by alerting and notification of people in less immediately affected areas. The backup method may have the additional capability of being employed only in the specific areas impacted when a portion of the primary ANS, such as a single siren or sirens within a community, fails and the extent of the affected area and population can be determined.

The new requirement for a backup method would apply to both the alerting function and notification function of the FEMA-approved ANS. However, the NRC recognizes that some backup methods would not be capable of meeting the timeframes that are part of the primary ANS design objectives. The intent of the proposed amendment would not be to have a duplicate primary ANS, but to have a means of backup alerting and notification in place so the public could be alerted in sufficient time to allow offsite officials to consider a range of protective actions for the public to take in the event of a severe accident with potential offsite radiological consequences. Guidance would be provided to clarify the design objectives and other criteria for ANS backup methods.

For nuclear power plant sites with no backup measures currently in place, backup provisions would need to be identified, incorporated into the site's ANS design, and submitted for FEMA approval as specified in FEMA–REP–10, ''Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants.'' For nuclear power plant sites that already have provisions for ANS backup means in FEMA-approved ANS designs, licensees and offsite officials would need to confirm that the backup methods meet the proposed requirements and submit revised ANS designs for FEMA approval if changes were deemed necessary. Timeframes for submitting and approving ANS designs, along with implementation of the backup methods, could vary considerably depending on the level of ANS backup measures already in place. Therefore, backup methods must be ready for demonstration no later than its first biennial exercise conducted more than one year after the effective date of the rule, which would result in a maximum of approximately 3 years for implementation across the industry.

Additional changes to Appendix E, Section IV.D.3. are being proposed to more clearly distinguish between the alerting and notification functions of the ANS (including clarification of how the 15-minute design objective applies to these functions), to use consistent terminology when referring to the officials responsible for ANS activation, and to update language regarding demonstration of ANS capabilities and correction of deficiencies. References to the alerting function would be added to Section IV.D.3. to clearly indicate that the requirements for the primary and backup ANS apply to both the alerting

and notification functions. The wording of the primary ANS design objective would be revised to clarify that the 15-minute criterion applies to the completion of the initial alerting and start of the initial notification of the public (See *Public Service Company of New Hampshire* (Seabrook Station, Units 1 and 2), ALAB–935, 32 NRC 57, 68 (1990)). The phrase ''appropriate governmental authorities'' would be used in place of ''State and local officials'' when referring to ANS activation to encompass site-specific variations in the assignment of the responsibility for this function according to each offsite emergency plan and established ANS activation protocols. This responsibility may be assigned to a single State or local organization, or to multiple organizations among various State, county, local, and other governmental agencies. The use of ''appropriate governmental authorities'' addresses all of these combinations. The current language in Section IV.D.3. refers to the February 1, 1982, date for then-existing nuclear power reactor licensees to have demonstrated ANS capabilities for their sites. The NRC is proposing to remove the reference to the February 1, 1982 date and require that ANS capabilities to alert the public and provide instructions promptly must be demonstrated before exceeding 5 percent rated thermal power of the first reactor at each site, consistent with the requirements of § 50.47(d). It is also important that licensees promptly correct deficiencies found during initial ANS installation and testing, as well as deficiencies identified thereafter, as required by § 50.54(s)(2). However, the requirement for correction of ANS deficiencies is clearly stated in § 50.54(s)(2)(ii) and does not need to be repeated in Part 50, Appendix E, Section IV.D.3.

The NRC is also proposing to add language to Section IV.D.3. of Appendix E to require licensees under this part and Part 52 to implement the requirements for a backup means of alerting and notification under proposed Part 50, Appendix E, Section IV.D.3. no later than its first biennial exercise conducted more than one year after the effective date of the rule.

Note that no changes are proposed to the basic requirement in § 50.47(b)(5) for nuclear power plant licensees or applicants to ensure that the means to provide early notification and clear instruction (i.e., alerting and notification) to the populace in the plume exposure pathway EPZ have been established. It is not necessary to address backup methods in § 50.47(b)(5) because the current provision establishes the overall requirement for alerting and notification.

The NRC is also proposing to revise Section IV.E.5. of Appendix E to change the term ''radiation'' to ''radiological,'' to provide consistent use of the phrase ''radiological emergency''; and the existing language of Appendix E, Section IV.E.8. to redesignate the revised language as Section IV.E.8.a.; and add new Sections IV.E.8.b., IV.E.8.c., IV.E.8.d., and IV.E.8.e.

Proposed Section IV.E.8.a. would remove the reference to the EOF as a ''near-site'' facility and add the requirement that nuclear power plant licensees and applicants under this part and Part 52 must provide an OSC. In a conforming change, § 52.79(a)(17) would be revised to make it clear that combined license applications would not be subject to the TMI action requirements in § 50.34(f)(2)(xxv), which address the need for an onsite TSC, an onsite OSC, and for an EOF. Instead, the requirements governing the need for such facilities in Part 50, Appendix E, Section IV.E.8.a(i) would apply to combined license applications. (A discussion of this issue is also provided in Section II.B.3 of this document.)

Proposed Section IV.E.8.b. would incorporate EOF distance criteria currently found in NRC guidance and specify that an EOF must be located within 10 to 25 miles of each nuclear power reactor site that the facility serves or, if the EOF is located less than 10 miles from a nuclear power reactor site, then a backup facility must be provided within 10 to 25 miles of a site. The distance between the EOF and a site would be determined by the straight-line distance from the site's TSC to the EOF, which would be consistent with the approach described in NUREG–0696, Table 2, ''Relation of EOF Location to Habitability Criteria.'' An exception to the 25-mile limit would be made for an EOF as long as provisions for locating NRC and offsite responders closer to that nuclear power reactor site are made so they can interact face-to-face with personnel going to and leaving the site for briefings and debriefings. During an event, NRC and offsite agency staff may wish to relocate from a remotely located EOF to another facility closer to the nuclear power plant site. Suitable space near the site would be available so NRC and offsite agency staff could coordinate their actions efficiently, communicate with responders in other onsite and offsite emergency response facilities, and interface directly with responders at the site as needed. This space would allow NRC site team and offsite response personnel, including Federal, State, and local responders, to conduct briefings and debriefings with emergency response personnel entering and leaving the site, communicate with responders at other emergency response facilities, maintain awareness of conditions at the site, and share information with other emergency response organizations via computer links, such as the Internet.

Proposed Section IV.E.8.c. would provide performance-based criteria applicable to all EOFs. The functions that an EOF would have to address include the capability to obtain and display plant data and radiological information for each reactor unit or plant that the facility serves. In some cases, an EOF could serve units or plants involving more than one type of reactor technology, such as pressurized water reactors and boiling water reactors, or more than one design of the same reactor type. The EOF staff would need to be capable of understanding conditions for each type of reactor and translating technical information into a useful form for offsite officials and media relations staff. A co-located or consolidated facility would also need to be capable of supporting effective response to events at more than one site simultaneously, because widespread events affecting multiple sites can and have occurred, such as the electrical blackout in several areas of the northeastern U.S. and portions of Canada in August 2003. The ability to simultaneously display information for multiple plants would also enhance effective response to events occurring at more than one site.

By codifying EOF distance requirements in Section IV.E.8.b. of Appendix E and providing specific criteria for EOFs in Section IV.E.8.c., the proposed language would obviate the need for licensees to seek NRC approval at either the staff or Commission level to locate an EOF or consolidate EOFs meeting certain performance-based requirements and having provisions for NRC site team and offsite agency responders closer to a site if the EOF is located more than 25 miles from a site. Licensees could then implement a relocated or consolidated facility as part of their emergency response plans under the provisions of § 50.54(q) without prior NRC approval. The proposed language would also address Commission direction provided in the SRM to SECY–04–0236, as discussed in Section II.B.3 of this document. During exercises and actual events, EOFs located more than 25 miles from a site that have been previously approved by the NRC have functioned as effective

emergency response facilities and demonstrated that a near-site EOF is not necessary to adequately protect public health and safety.

Although not included in the proposed rule language of Sections IV.E.8.b. or IV.E.8.c. as a requirement, the NRC believes it is important for licensees or applicants to consult with offsite agencies that send representatives to the EOF prior to relocating or consolidating such facilities. This consultation is particularly important when a licensee or applicant intends to use an EOF located more than 25 miles from a site to ensure that response times to the facility would be acceptable to offsite responders, adequate communications with offsite responders at other locations would be available, and there would be no jurisdictional concerns with the EOF location (e.g., when the EOF is located in a different State than a nuclear power plant). Additional criteria regarding EOF habitability, size, staffing, and other characteristics would remain as guidance.

Proposed Section IV.E.8.d. would require nuclear power plant licensees and applicants under this part and Part 52, to identify alternative facilities to function as staging areas for augmentation of ERO staff during hostile action events to minimize delays in emergency response and provide for a swift coordinated augmented response. To accomplish this, the alternative facility would be required to have the following characteristics: Accessibility even if the site is under threat or actual attack; communication links with the EOF, Control Room, and plant security; the capability to notify offsite agencies if the EOF is not performing this action; and the capability for engineering assessment activities, including damage control team planning and preparation. The alternative facility should also be equipped with general plant drawings and procedures, telephones, and computer links to the site to ensure that the ERO is aware of conditions at the site and prepared to return when personnel are allowed to re-enter the site. This would enable rapid staffing of onsite emergency response facilities and implementation of mitigation actions when ERO personnel enter the protected area. However, alternative facilities would not be required to reproduce the full documentation present at primary emergency response facilities. (A discussion of this issue is also provided in Section II.A.3 of this document.)

The NRC also proposes to add a new Section IV.E.8.e. to permit a nuclear power reactor licensee, that, on the day the final rule becomes effective, has an approved EOF that does not meet the distance criteria for a primary or backup EOF, or does not have provisions for a facility closer to the site if the EOF is located more than 25 miles from a nuclear power reactor site, to not be subject to the requirements of Section IV.E.8.b. These licensees have already received approval from the Commission for variances from existing requirements (and guidance) regarding EOF locations, backup EOF facilities, or other EOF characteristics. (Also refer to the discussion of this issue in Section II.B.3 of this document.)

The NRC is proposing to amend Sections IV.E.9.c. and IV.E.9.d. to remove references to the EOF as a ''near-site'' facility. Criteria would be provided in Section IV.E.8. of Appendix E, regarding EOF distance from a nuclear power reactor site and for a performance-based approach for EOFs. The criteria would specify that these facilities would need to meet certain functional requirements rather than requiring that they be located within a certain distance of the plant. The intent of this change is discussed in the proposed changes to Section IV.E.8 of Appendix E. (A discussion of this issue is also provided in Section II.B.3 of this document.)

The NRC is proposing to revise paragraph F.1.a. of Section IV. to remove the word ''radiation'' because the advent of hostile action-based scenarios renders usage of the word as too limiting in describing potential emergencies. This change would provide consistent use of the term ''emergency plan.'' The NRC is also proposing to revise paragraph F.1.b. to change the term ''radiation'' to ''radiological,'' to provide consistent use of the phrase ''radiological emergency.''

The NRC proposes to add a new requirement to Section IV.F.2.a. to require licensees to submit, for NRC review and approval, scenarios for full participation exercises required by Appendix E, Section IV.F.2.a. This proposed requirement would enable the NRC to ensure that licensee exercise scenarios implement the proposed requirements of Sections IV.F.2.i. and IV.F.2.j. of Appendix E, including hostile action events and a variety of challenges to reduce preconditioning of respondents. The NRC also proposes to insert the word ''initial'' in paragraph F.2.a. to distinguish between the requirements of paragraphs F.2.a. and F.2.b. (A discussion of this issue is also provided in Section II.A.6 of this document.)

The NRC is proposing to revise paragraphs F.2.a.(ii) and F.2.a.(iii) of Appendix E, Section IV. to replace ''DHS'' with ''FEMA.'' Although FEMA remains within DHS, the responsibility for offsite EP for nuclear power plants is with FEMA. FEMA has requested that ''FEMA'' be used rather than ''DHS'' for clarity of communication with stakeholders.

The NRC is proposing several revisions to Section IV.F.2.b. to require licensees to submit, for NRC review and approval, scenarios for their onsite biennial exercises. This proposed requirement would enable the NRC to ensure licensee exercise scenarios implement the proposed requirements of Appendix E, Sections IV.F.2.i. and IV.F.2.j., including hostile action events and a variety of challenges to reduce preconditioning of respondents. The NRC also proposes to insert the word ''subsequent'' in paragraph F.2.b. of Section IV. to distinguish between the requirements of paragraphs F.2.a. and F.2.b.

The current language in Section IV.F.2.b. requires that licensees ensure that adequate emergency response capabilities are maintained to address several principal emergency response functional areas. The NRC is proposing to expand the list of principal functional areas of emergency response in paragraph F.2.b. to include event classification, notification of offsite authorities, assessment of the impact of onsite and offsite radiological releases, and development of protective action recommendations. These additional functional areas are associated with the planning standards in § 50.47(b) that have a significant impact on determining the licensee's ability to implement adequate measures to protect public health and safety during a radiological emergency (i.e., § 50.47(b)(4) regarding event classification, § 50.47(b)(5) regarding notification of offsite authorities, § 50.47(b)(9) regarding assessment of radiological releases, and § 50.47(b)(10) regarding protective actions).

The NRC proposes to amend the last sentence of Section IV.F.2.b. to add ''in all participating facilities'' after ''operating staff'' to clarify that the operating staff from all facilities need not participate in the drill. The NRC also proposes to change ''the drills could focus on onsite training objectives'' to ''the drills may focus on the onsite exercise training objectives'' to make the permissive intent of the regulatory language more explicit.

The NRC is proposing to amend Section IV.F.2.f. to add a second situation when remedial exercises would be required. The proposed amendment would explain that

remedial exercises would be required if the emergency plan is not satisfactorily tested during the biennial exercise, such that the NRC, in consultation with FEMA, could not find reasonable assurance that adequate protective measures could be taken in response to an emergency or determine that key ERO skills had been maintained. This change would demonstrate the NRC's intent to invoke this requirement for exercises where the scope of the exercise is not sufficient to demonstrate the maintenance of key ERO skills. In the past, some exercises have not provided such a demonstration due to the use of simplistic scenarios. The proposed rule change is intended to prevent this trend in the future. The key skills necessary to implement the emergency plan vary among ERO members, emergency response facilities, and licensees. In general, key skills include the ability to implement emergency response procedures specific to the duties of the ERO member. Key skills include specific response capabilities that may be assigned in a site-specific manner such as:

- Timely classification of events;
- Timely notification of offsite authorities;
- Assessment of radiological releases onsite and offsite;
- Development of protective action recommendations;
- Dissemination of information to the public via media channels;
- Engineering assessment, repair plan development, and repair of critical equipment under emergency conditions;
- Protection of workers during emergency response, including medical care;
- Response to operational transients while implementing the emergency plan; and
- Coordination with offsite response organizations.

The NRC also proposes to revise Section IV.F.2.g. to require licensees to correct any weaknesses or deficiencies identified during training evolutions, exercises, or drills. This change would explicitly state the regulatory intent that training evolutions, drills, and exercises are included in the requirement for critique and correction of weaknesses or deficiencies.

The NRC is proposing to add a new Section IV.F.2.i. to Appendix E to require all nuclear power plant licensees under this part and Part 52 to include hostile action events in biennial evaluated exercises. The proposed rule would also ensure that scenarios would be sufficiently varied by requiring the use of a wide spectrum of radiological releases and events, to properly train responders in response to more realistic events than currently used in training and avoid preconditioning the responders to success with inappropriate anticipatory responses. Licensees would also be required to emphasize coordination in their drills and exercises among onsite and offsite response organizations to strengthen the capabilities of the OROs to adequately respond to an emergency at the plant that would require offsite response. (A discussion of this issue is also provided in Section II.A.6 of this document.)

The NRC is proposing to add a new Section IV.F.2.j. to Appendix E to require that nuclear power plant licensees under this part and Part 52 conduct exercises that provide ERO members the opportunity to demonstrate proficiency in the key skills necessary to implement the principal emergency response functional areas identified in Section IV.F.2.b. Each exercise would also be required to provide ERO members the opportunity to demonstrate key skills specific to the emergency response duties in each emergency response facility. Each exercise planning cycle would consist of six successive (i.e., non-rolling) calendar years. During each exercise planning cycle, licensees would be required to vary the content of exercise scenarios to provide ERO members the opportunity to demonstrate proficiency in the key skills necessary to respond to several specific scenario elements, including hostile action directed at the plant site; no radiological release or an unplanned minimal radiological release that does not require public protective actions; an initial classification of or rapid escalation to a Site Area Emergency or General Emergency; implementation of strategies, procedures, and guidance developed under § 50.54(hh); and integration of offsite resources with onsite response. In addition to occurring every exercise planning cycle, the proposed rule would also require that the frequency of exercises involving response to a hostile action event not exceed 8 years. This proposed amendment would prescribe the minimum exercise scenario elements necessary for licensees to meet NRC expectations for challenging and varied scenario content in biennial exercises.

Proposed Section IV.F.2.j. would require that licensees maintain a record of exercises that documents the contents of scenario elements used for each exercise during an exercise planning cycle to comply with the requirements of paragraph F.2.j. The documentation would include, but not be limited to, the following items for each scenario: sequence and timeline of events; extent of ERO participation and objectives to be demonstrated; opportunities for ERO demonstration of classification, notification, and development of protective action recommendations; expected radiological release conditions and demonstration of dose assessment, including dose projection results; and expected onsite/offsite radiological survey activities and results.

The NRC is proposing to add a new Section IV.F.2.k. to Appendix E, to require a licensee under this part or Part 52 to implement the requirements under proposed Part 50, Appendix E, Section IV.F.2. no later than its first biennial exercise conducted more than one year after the effective date of the final rule.

The NRC proposes to add a new Section IV.I. to Appendix E that would require nuclear power plant licensees under this part and Part 52 to provide an expanded range of protective measures for onsite personnel that would be appropriate for protection against a hostile action event. These measures would be site-specific and consider issues such as the location of workers in relation to potential targets, which would dictate if sheltering and/or evacuation would be appropriate to adequately protect the workers. Such measures are prudent to protect personnel necessary to safely shut down the reactor and emergency responders who would be necessary to implement the licensee's emergency plan. By specifying such measures for personnel designated to carry out site emergency actions, other onsite workers would also be protected because the onsite protective measures that were deemed appropriate to protect against a hostile action event would be provided via plant page announcements or at the direction of site security personnel to the site as a whole and would not be directed to any particular group of workers. The new requirement would not direct any specific actions, but would allow licensees flexibility to determine the most effective protective measures for onsite personnel protection on a site-specific basis. It also would allow licensees to take advantage of new technologies or other innovations that could further enhance the protection of workers. (A discussion of this issue is also provided in Section II.A.5 of this document.)

If this proposed rule becomes final, the NRC proposes to make it effective 30 days after publication of the final rule in the **Federal Register**. Licensees and applicants, as applicable, would be permitted to defer implementation of the final rule until 180 days after publication of the final rule in the

Federal Register, except for the following proposed rule changes:

(1) The requirements under proposed § 50.54(q) (emergency plan change process), which would become effective 30 days after publication of the final rule in the **Federal Register**;

(2) The requirements under proposed Part 50, Appendix E, Section IV.F.2. (challenging drills and exercises), which each applicable licensee would be required to implement no later than its first biennial exercise conducted more than one year after the effective date of the rule. Also, the implementation schedule for the proposed changes in Appendix E, Section IV.F.2. would allow licensees to complete biennial exercises that would already be in the planning process when the final rule becomes effective, without having to consider the new requirements of the final rule. This schedule also would have the general effect of allowing exercises which meet the new requirements to be conducted over a two-year period, following the effective date of the final rule, thereby allowing licensees and the NRC to gain experience during initial implementation. Consideration will be given to States with multiple reactor sites for the implementation schedule of the exercise requirement under Appendix E, Section IV.F.2.; and

(3) The requirements under proposed Part 50, Appendix E, Section IV.D.3. (backup means for alert and notification systems), which each applicable licensee would be required to implement no later than its first biennial exercise conducted more than one year after the effective date of the rule. The implementation schedule for the proposed changes in Appendix E, Section IV.D.3. would provide licensees a maximum of approximately 3 years for implementation across the industry.

VI. Guidance

The NRC proposes to revise existing guidance and provide new guidance for the new requirements in this proposed rule. This guidance is intended to provide an acceptable method of how licensees and applicants can meet the requirements of the proposed rule. Final guidance would be published concurrently with publication of the final rule.

VII. Criminal Penalties

Section 223 of the Atomic Energy Act of 1954, as amended (AEA), provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under Sections 161b, 161i, or 161o of the AEA. For the purposes of Section 223 of the AEA, the Commission is proposing to amend 10 CFR Parts 50 and 52 and Appendix E to Part 50 under Sections 161b, 161i, and 161o of the AEA.

VIII. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement States Programs,'' approved by the Commission on June 20, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), this rule is classified as compatibility ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the AEA or the provisions of this chapter. Although an Agreement State may not adopt program elements reserved to the NRC, it may wish to inform its licensees of certain requirements by a mechanism that is consistent with the particular States administrative procedure laws. Category ''NRC'' regulations do not confer regulatory authority on the State.

IX. Availability of Documents

The NRC is making the documents identified below available to interested persons through one or more of the following methods, as indicated.

Public Document Room (PDR). The NRC Public Document Room is located at 11555 Rockville Pike, Rockville, Maryland 20852.

Regulations.gov (Web). These documents may be viewed and downloaded electronically through the Federal e-Rulemaking Portal *http://www.regulations.gov,* Docket number NRC–2008–0122.

NRC's Electronic Reading Room (ERR). The NRC's public electronic reading room is located at *http://www.nrc.gov/reading-rm.html.*

Document	PDR	Web	ERR (ADAMS)
NRC Order EA–02–026, ''Order for Interim Safeguards and Security Compensatory Measures,'' issued February 25, 2002.	X	.....	ML020510635
SRM–M041214B—''Briefing on Emergency Preparedness Program Initiatives, 1:00 p.m., Tuesday, December 14, 2004, Commissioners' Conference Room, One White Flint North, Rockville, Maryland (Open to Public Attendance),'' dated December 20, 2004.	X	.....	ML043550354
Bulletin 2005–02 (BL–05–02), ''Emergency Preparedness and Response Actions for Security-Based Events,'' dated July 18, 2005.	X	.....	ML051990027
SECY–06–0200, ''Results of the Review of Emergency Preparedness Regulations and Guidance,'' dated September 20, 2006.	X	.....	ML061910707
SRM to SECY–06–0200, ''Results of the Review of Emergency Preparedness Regulations and Guidance'' dated January 8, 2007.	X	.....	ML070080411
Memorandum to the Commission, ''Rulemaking Plan for Enhancements to Emergency Preparedness Regulations and Guidance,'' dated April 17, 2007.	X	.....	ML070440148
SRM–M060502, ''Staff Requirements—Briefing on Status of Emergency Planning Activities, (Two sessions) 9:30 a.m. and 1 p.m., Tuesday, May 2, 2006, Commissioners' Conference Room, One White Flint North, Rockville, Maryland (Open to public attendance)'' dated June 29, 2006.	X	.....	ML061810014
''Summary of March 5, 2008 Meeting to Discuss Emergency Preparedness Draft Preliminary Rule Language,'' dated April 3, 2008.	X	X	ML080940227
Draft Preliminary Rule Language, Emergency Preparedness Rulemaking, February, 2008.	X	X	ML080370069
''Summary of July 8, 2008 Meeting to Discuss Comments on Emergency Preparedness Draft Preliminary Rule Language,'' dated August 6, 2008.	X	X	ML082180005
Order EA–02–261, ''Access Authorization Order,'' issued January 7, 2003 (January 13, 2003; 68 FR 1643).	X	.....	ML030060360
Order EA–03–039, ''Security Personnel Training and Qualification Requirements (Training) Order,'' issued April 29, 2003 (May 7, 2003; 68 FR 24514).	X	.....	ML030910625
Order EA–03–086, ''Revised Design Basis Threat Order,'' issued April 29, 2003 (May 7, 2003; 68 FR 24517).	X	.....	ML030740002

Document	PDR	Web	ERR (ADAMS)
Federal Register Notice—Final Rule to Amend 10 CFR 73.1: Design Basis Threat (March 19, 2007; 72 FR 12705).	X	.....	ML070520692
Information Notice (IN) 91–77, ''Shift Staffing at Nuclear Power Plants,'' dated November 26, 1991.	X	.....	ML031190405
IN 93–81, ''Implementation of Engineering Expertise On-Shift,'' dated October 12, 1993	X	.....	ML031070314
IN 95–48, ''Results of Shift Staffing Study,'' dated October 10, 1995	X	.....	ML031060170
NUREG–0654/FEMA–REP–1, ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants,'' dated November 1980.	X	.....	ML040420012
NUMARC/NESP–007, Revision 2, ''Methodology for Development of Emergency Action Levels,'' dated January 1992.	X	.....	ML041120174
NEI 99–01, Revision 5, ''Methodology for Development of Emergency Action Level,'' dated September 2007.	X	.....	ML073330643
Regulatory Issue Summary 2004–15, ''Emergency Preparedness Issues: Post-9/11,'' dated October 18, 2004.	X	.....	Non-Publicly Available.
NEI 06–04, ''Conducting a Hostile Action-Based Emergency Response Drill,'' Rev. 1, dated October 30, 2007.	X	.....	ML073100460
RIS 2008–08, ''Endorsement of Revision 1 to Nuclear Energy Institute Guidance Document NEI 06–04, ''Conducting a Hostile Action-Based Emergency Response Drill,'' dated March 19, 2008.	X	.....	ML080110116
IN 2002–25, ''Challenges to Licensees' Ability to Provide Prompt Public Notification and Information During an Emergency Preparedness Event,'' dated August 26, 2002.	X	.....	ML022380474
IN 2005–06, ''Failure to Maintain Alert and Notification System Tone Alert Radio Capability,'' dated March 30, 2005.	X	.....	ML050680335
IN 2006–28, ''Siren System Failures Due to Erroneous Siren System Signal,'' dated December 22, 2006.	X	.....	ML062790341
IN 1996–19, ''Failure of Tone Alert Radios to Activate When Receiving a Shortened Activation Signal,'' dated April 2, 1996.	X	.....	ML031060187
Regulatory Guide (RG) 1.155, ''Station Blackout,'' issued August 1988	X	.....	ML003740034
IN 85–80, ''Timely Declaration of an Emergency Class, Implementation of an Emergency Plan, and Emergency Notifications,'' dated October 15, 1985.	X	.....	ML031180307
Emergency Preparedness Position (EPPOS)–2, ''Emergency Preparedness Position (EPPOS) on Timeliness of Classification of Emergency Conditions,'' dated August 1, 1995.	X	.....	ML023040462
NUREG/CR–6953 Vol. 1, ''Review of NUREG–0654 Supplement 3, Criteria for Protective Action Recommendations for Severe Accidents,'' dated December 2007.	X	.....	ML080360602
NUREG/CR–6863, ''Development of Evacuation Time Estimates for Nuclear Power Plants,'' dated January 2005.	X	.....	ML050250240
NUREG/CR–6864, ''Identification and Analysis of Factors Affecting Emergency Evacuations,'' dated January 2005.	X	.....	ML050250245
Withdrawal of Emergency Preparedness Position (EPPOS) 4, ''Emergency Plan and Implementing Procedure Changes,'' dated November 19, 1998.	X	.....	ML050800537
RIS 2005–02, ''Clarifying the Process for Making Emergency Plan Changes,'' dated February 14, 2005.	X	.....	ML042580404
''Summary of the Public Meeting to Discuss Selected Topics for the Review of Emergency Preparedness Regulations and Guidance for Commercial Nuclear Power Plants,'' dated September 27, 2005.	X	.....	ML052650446
''Discussion of NREP 'Parking Lot' Items,'' dated August 11, 2005	X	.....	ML052000263
Transcripts for August 31, 2005 and September 1, 2005 Portion of the Emergency Preparedness Public Meeting.	X	.....	ML052620366
''Summary and Analysis of Comments (Received Between August 31 and October 31, 2005),'' dated February 28, 2006.	X	.....	ML060450376
''Summary and Analysis of Site-Specific Comments (Received Between August 31 and October 31, 2005),'' dated March 31, 2006.	X	.....	ML060860401
Transcript of Public Meeting for Follow Up Discussions of Selected Topics for the Review of Emergency Preparedness Regulations and Guidance for Commercial Nuclear Power Plants, held May 19, 2006.	.....	.....	ML061590186
NUREG–0696, ''Functional Criteria for Emergency Response Facilities,'' dated February 1981.	X	.....	ML051390358
SRM to SECY–04–0236, ''Southern Nuclear Operating Company's Proposal to Establish a Common Emergency Operating Facility at Its Corporate Headquarters,'' dated February 23, 2005.	X	.....	ML050550131
NUREG–0737, ''Clarification of TMI Action Plan Requirements,'' Supplement 1, ''Requirements for Emergency Response Capabilities,'' dated January 1983.	X	.....	ML051390367
Comments submitted by Nuclear Energy Institute on EP draft preliminary rule language (Letter identifier for comments: NEI1–X).	X	X	ML081690809
Comments submitted by Union of Concerned Scientists on EP draft preliminary rule language (Letter identifier for comments: NGO1–X).	X	X	ML081840067
Comments submitted by PA Bureau of Radiation Protection on EP draft preliminary rule language (Letter identifier for comments: SPA1–X).	X	X	ML081690778
EP proposed rule Regulatory Analysis and Backfit Analysis	X	X	ML091180228
EP proposed rule Environmental Assessment	X	X	ML091180223
EP Paperwork Burden Analysis	X	X	ML091180224

Document	PDR	Web	ERR (ADAMS)
NRC comment responses for EP draft preliminary rule language	X	X	ML091180198

X. Plain Language

The Presidential memorandum ''Plain Language in Government Writing'' published on June 10, 1998 (63 FR 31883), directed that the Government's documents be in clear and accessible language. The NRC requests comments on the proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the NRC as explained in the **ADDRESSES** heading of this document.

XI. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or is otherwise impractical. The NRC is not aware of any voluntary consensus standard that could be used instead of the proposed Government-unique standards. The NRC will consider using a voluntary consensus standard if an appropriate standard is identified.

XII. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A, ''National Environmental Policy Act; Regulations Implementing Section 102(2),'' of 10 CFR Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

The determination of this environmental assessment is that there will be no significant offsite impact to the public from this action. However, the general public should note that the NRC is seeking public participation and the environmental assessment is available as indicated in Section IX of this document. Comments on any aspect of the environmental assessment may be submitted to the NRC as indicated under the **ADDRESSES** heading of this document.

The NRC has sent a copy of the environmental assessment and this proposed rule to every State Liaison Officer and requested their comments on the environmental assessment.

XIII. Paperwork Reduction Act Statement

The proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). This rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

Type of submission, new or revision: Revision.

The title of the information collection: 10 CFR Part 50, ''Domestic Licensing of Production and Utilization Facilities.''

The form number if applicable: Not applicable.

How often the collection is required: One-time, on occasion and annually

Who will be required or asked to report: Operating nuclear power reactors.

An estimate of the number of annual responses: 987.

The estimated number of annual respondents: 97.

An estimate of the total number of hours needed annually to complete the requirement or request: 177,242 hours.

Abstract: The U.S. Nuclear Regulatory Commission (NRC) regulations in 10 CFR 50.34, 50.47, 50.54, and 10 CFR Part 50, Appendix E prescribe requirements for emergency preparedness plans and coordination in protecting nuclear power reactors, non-power reactors, and the surrounding community against consequences resulting from accidents and sabotage. The proposed rule contains reporting and recordkeeping requirements, including those for third parties, which are necessary to help ensure that an adequate level of emergency preparedness is attained by nuclear power reactor licensees, non-power reactors, and the surrounding community. This revision addresses changes in information collections contained in the proposed rule, ''Enhancements to Emergency Preparedness Regulations.'' Specifically, the draft proposed rule results in changes to information collection requirements in § 50.47, § 50.54, and 10 CFR Part 50, Appendix E.

The NRC is seeking public comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?
2. Estimate of burden?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1F21, Rockville, MD 20852. The OMB clearance package and rule are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 60 days after the signature date of this notice.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the above issues, by June 17, 2009 to the Records and FOIA/Privacy Services Branch (T–5F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by e-mail to *INFOCOLLECTS.RESOURCE@NRC.GOV* and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011), Office of Management and Budget, Washington, DC 20503. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. You may also e-mail comments to *Christine.Kymn@omb.eop.gov* or comment by telephone at (202) 395–4638.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

XIV. Regulatory Analysis: Availability

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The Commission requests public comments

on the draft regulatory analysis. Availability of the regulatory analysis is indicated in Section IX of this document. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

XV. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XVI. Backfit Analysis

As required by 10 CFR 50.109, the Commission has completed a backfit analysis for the proposed rule. The Commission finds that the backfits contained in the proposed rule, when considered in the aggregate, would constitute a substantial increase in emergency preparedness and would be justified in view of this increased protection of the public health and safety. Availability of the backfit analysis is indicated in Section IX of this document.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspections, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50 and Part 52.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 594 (2005). Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332).

Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 and 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 50.47 is amended by revising paragraphs (b)(3), (b)(10) and (d)(1) to read as follows:

§ 50.47 Emergency plans.

* * * * *

(b) * * *

(3) Arrangements for requesting and effectively using assistance resources have been made, arrangements to accommodate State and local staff at the licensee's Emergency Operations Facility have been made, and other organizations capable of augmenting the planned response have been identified.

* * * * *

(10) A range of protective actions has been developed for the plume exposure pathway EPZ for emergency workers and the public. In developing this range of actions, consideration has been given to evacuation, sheltering, and, as a supplement to these, the prophylactic use of potassium iodide (KI), as appropriate. Evacuation time estimates have been developed by applicants and licensees and must be updated on a periodic basis. Evacuation time estimates and updates must be submitted by applicants and licensees to the NRC for review and approval. Guidelines for the choice of protective actions during an emergency, consistent with Federal guidance, are developed and in place, and protective actions for the ingestion exposure pathway EPZ appropriate to the locale have been developed.

* * * * *

(d) * * *

(1) Arrangements for requesting and effectively using offsite assistance on site have been made, arrangements to accommodate State and local staff at the licensee's Emergency Operations Facility have been made, and other organizations capable of augmenting the planned onsite response have been identified.

* * * * *

3. Section 50.54 is amended as follows:

a. Revise paragraphs (q), (s)(1), (gg)(1), (gg)(1)(i), and (gg)(2);

b. Remove and reserve paragraphs (r), (s)(2)(i), and (u).

§ 50.54 Conditions of licenses.

* * * * *

(q) *Emergency Plans.* (1) Definitions for the purpose of this section:

(i) *Change* means an action that results in modification or addition to, or removal from, the licensee's emergency plan or the resources, capabilities, and methods identified in the plan. All such changes are subject to the provisions of this section except where the applicable regulations establish specific criteria for accomplishing a particular change.

(ii) *Emergency plan* means the document(s), prepared and maintained by the licensee, that identify and describe the licensee's methods for maintaining and performing emergency planning functions. An emergency plan includes the plans as originally approved by the NRC and all subsequent changes made by the licensee with, and without, prior NRC review and approval under § 50.54(q).

(iii) *Emergency planning function* means a capability or resource necessary to prepare for and respond to a radiological emergency, as set forth in the elements of section IV. of appendix E to this part and, for nuclear power reactors, the planning standards of § 50.47(b).

(iv) *Reduction in effectiveness* means a change in an emergency plan that results in reducing the licensee's capability to perform an emergency planning function in the event of a radiological emergency.

(2) A holder of a license under this part, or a combined license under part

52 of this chapter after the Commission makes the finding under § 52.103(g) of this chapter, shall follow and maintain the effectiveness of an emergency plan that meets the requirements in appendix E to this part and, for nuclear power reactor licensees, the planning standards of § 50.47(b).

(3) The licensee may make changes to its emergency plan without NRC approval only if the licensee can demonstrate through analysis that the changes do not reduce the effectiveness of the plan and the plan, as changed, continues to meet the requirements in appendix E to this part and, for nuclear power reactor licensees, the planning standards of § 50.47(b).

(4) The changes to a licensee's emergency plan that reduce the effectiveness of the plans as defined in § 50.54(q)(1)(iv) may not be implemented without prior approval by the NRC. A licensee desiring to make such a change shall submit an application for an amendment to its license. In addition to the filing requirements of §§ 50.90 and 50.91, the request must include all emergency plan pages affected by that change and must be accompanied by a forwarding letter identifying the change, the reason for the change, and the basis for concluding that the licensee's emergency plan, as revised, will continue to meet the requirements in appendix E to this part and, for nuclear power reactor licensees, the planning standards of § 50.47(b).

(5) The licensee shall retain a record of each change to the emergency plan made without prior NRC approval for a period of three years from the date of the change and shall submit, as specified in § 50.4, a report of each such change, including its analysis, within 30 days after the change is made.

(6) The nuclear power reactor licensee shall retain the emergency plan and each change for which prior NRC approval was obtained pursuant to § 50.54(q)(4) as a record until the Commission terminates the license for the nuclear power reactor.

* * * * *

(r) [Reserved]

* * * * *

(s)(1) Generally, the plume exposure pathway EPZ for nuclear power reactors shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius. The exact size and configuration of the EPZs for a particular nuclear power reactor shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled nuclear reactors and for reactors with an authorized power level less than 250 MW thermal. The plans for the ingestion pathway EPZ shall focus on such actions as are appropriate to protect the food ingestion pathway.

* * * * *

(2)(i) Reserved.

* * * * *

(u) [Reserved]

* * * * *

(gg)(1) Notwithstanding 10 CFR 52.103, if following the conduct of the exercise required by paragraph IV.f.2.a of appendix E to part 50 of this chapter, FEMA identifies one or more deficiencies in the state of offsite emergency preparedness, the holder of a combined license under 10 CFR part 52 may operate at up to 5 percent of rated thermal power only if the Commission finds that the state of onsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC will base this finding on its assessment of the applicant's onsite emergency plans against the pertinent standards in § 50.47 and appendix E to this part. Review of the applicant's emergency plans will include the following standards with offsite aspects:

(i) Arrangements for requesting and effectively using offsite assistance onsite have been made, arrangements to accommodate State and local staff at the licensee's Emergency Operations Facility have been made, and other organizations capable of augmenting the planned onsite response have been identified.

* * * * *

(2) The condition in this paragraph, regarding operation at up to 5 percent power, ceases to apply 30 days after FEMA informs the NRC that the offsite deficiencies have been corrected, unless the NRC notifies the combined license holder before the expiration of the 30-day period that the Commission finds under paragraphs (s)(2) and (3) of this section that the state of emergency preparedness does not provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

* * * * *

4. In Appendix E to Part 50, Section IV. is amended as follows:

a. Revise the introductory text to the section, paragraphs A., A.2.c., A.7., B.1., B.2., C.1., C.2., D.3., E.5., E.8., E.9.c., E.9.d., F.1., F.2.a., F.2.a(ii), F.2.a(iii), F.2.b., F.2.f., F.2.g.;

b. Redesignate E.8. as E.8.a.; add new paragraphs E.8.b., E.8.c., E.8.d., and E.8.e.; and

c. Add new paragraphs A.9., F.2.i., F.2.j., F.2.k., and I.,, redesignate footnotes 3 through 11, as footnotes 4 through 12 and add a new footnote 3 to paragraph IV.A.7.

Appendix E to Part 50—Emergency Planning and Preparedness for Production and Utilization Facilities

* * * * *

IV. Content of Emergency Plans

The applicant's emergency plans shall contain, but not necessarily be limited to, information needed to demonstrate compliance with the elements set forth below, i.e., organization for coping with radiological emergencies, assessment action, activation of emergency organization, notification procedures, emergency facilities and equipment, training, maintaining emergency preparedness, and recovery. In addition, the emergency response plans submitted by an applicant for a nuclear power reactor operating license under this part, or for an early site permit (as applicable) or combined license under 10 CFR part 52, shall contain information needed to demonstrate compliance with the standards described in § 50.47(b), and they will be evaluated against those standards. The applicant shall also provide an analysis of the time required to evacuate and for taking other protective actions for various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations. NRC-approved evacuation time estimates (ETEs) and updates to the ETEs shall be used by licensees in the formulation of protective action recommendations and must be provided to State and local governmental authorities for use in developing protective action strategies. Within 180 days of issuance of the decennial census data by the U.S. Census Bureau, nuclear power reactor licensees and license applicants shall develop an ETE and submit it to the NRC for review and approval under § 50.4. During the years between decennial censuses, licensees shall estimate permanent resident population changes at least annually using U.S. Census Bureau data and/or State/local government population estimates. Licensees shall maintain these estimates so that they are available for NRC inspection during the period between censuses and shall submit these estimates to the NRC with any updated ETEs. If at any time during the decennial period, the population of either the EPZ or the most populous Emergency Response Planning Area increases or decreases by more than 10 percent from the population that formed the basis for the licensee's currently approved ETE, the ETE must be updated to reflect the impact of that population change. This updated ETE must be submitted to the NRC for review and approval under § 50.4 no later than 180 days after the licensee's determination that a

population change of more than 10 percent has occurred.

A. Organization

The organization for coping with radiological emergencies shall be described, including definition of authorities, responsibilities, and duties of individuals assigned to the licensee's emergency organization and the means for notification of such individuals in the event of an emergency. Specifically, the following shall be included:

* * * * *

2. A description of the onsite emergency response organization (ERO) with a detailed discussion of:

* * * * *

c. Authorities, responsibilities, and duties of an onsite emergency coordinator who shall be in charge of the exchange of information with offsite authorities responsible for coordinating and implementing offsite emergency measures.

* * * * *

7. Identification of, and assistance expected from, appropriate State, local, and Federal agencies with responsibilities for coping with emergencies. Nuclear power plant licensees shall ensure that offsite response organization resources (e.g., local law enforcement, firefighting, medical assistance) are available to respond to an emergency including a hostile action [3] event at the nuclear power plant site.

* * * * *

9. Nuclear power plant licensees under this part and Part 52 must provide a detailed analysis demonstrating that on-shift personnel assigned emergency plan implementation functions are not assigned any responsibilities that would prevent the timely performance of their assigned functions as specified in the emergency plan.

B. Assessment Actions

* * * * *

1. The means to be used for determining the magnitude of, and for continually assessing the impact of, the release of radioactive materials shall be described, including emergency action levels that are to be used as criteria for determining the need for notification and participation of local and State agencies, the Commission, and other Federal agencies, and the emergency action levels that are to be used for determining when and what type of protective measures should be considered within and outside the site boundary to protect health and safety. The emergency action levels shall be based on in-plant conditions and instrumentation in addition to onsite and offsite monitoring. These action levels must include hostile action events that may adversely affect the nuclear power plant. These initial emergency action levels shall be discussed and agreed on by the applicant or licensee and state and local governmental authorities, and approved by the NRC. Thereafter, emergency action levels shall be reviewed with the State and local governmental authorities on an annual basis.

2. A revision to an emergency action level scheme must be submitted as specified in § 50.4 for NRC approval before implementation if the licensee is changing from an emergency action level scheme based upon NUREG–0654 to another emergency action level scheme based upon NUMARC/NESP–007 or NEI 99–01. The licensee shall follow the change process in § 50.54(q) for all other emergency action level changes.

* * * * *

C. Activation of Emergency Organization

1. The entire spectrum of emergency conditions that involve the alerting or activating of progressively larger segments of the total emergency organization shall be described. The communication steps to be taken to alert or activate emergency personnel under each class of emergency shall be described. Emergency action levels (based not only on onsite and offsite radiation monitoring information but also on readings from a number of sensors that indicate a potential emergency, such as the pressure in containment and the response of the Emergency Core Cooling System) for notification of offsite agencies shall be described. The existence, but not the details, of a message authentication scheme shall be noted for such agencies. The emergency classes defined shall include: (1) Notification of unusual events, (2) alert, (3) site area emergency, and (4) general emergency. These classes are further discussed in NUREG–0654/FEMA–REP–1.

2. Nuclear power plant licensees and applicants under this part and Part 52 shall establish and maintain the capability to assess, classify, and declare an emergency condition within 15 minutes after the availability of indications to plant operators that an emergency action level has been exceeded and shall promptly declare the emergency condition as soon as possible following a determination that an emergency action level has been exceeded. These criteria must not be construed as a grace period to attempt to restore plant conditions to avoid declaring an emergency action due to an EAL that has been exceeded. These criteria must not be construed as preventing implementation of response actions deemed by the licensee to be necessary to protect public health and safety provided that any delay in declaration does not deny the State and local authorities the opportunity to implement measures necessary to protect the public health and safety.

D. Notification Procedures

* * * * *

3. A licensee shall have the capability to notify responsible State and local governmental agencies within 15 minutes after declaring an emergency. The licensee shall demonstrate that the appropriate governmental authorities have the capability to make a public alerting and notification decision promptly on being informed by the licensee of an emergency condition. Prior to initial operation greater than 5 percent of rated thermal power of the first reactor at a site, each nuclear power reactor licensee shall demonstrate that administrative and physical means have been established for alerting and providing prompt instructions to the public within the plume exposure pathway EPZ. The design objective of the prompt public alert and notification system shall be to have the capability to essentially complete the initial alerting and initiate notification of the public within the plume exposure pathway EPZ within about 15 minutes. The use of this alerting and notification capability will range from immediate alerting and notification of the public (within 15 minutes of the time that State and local officials are notified that a situation exists requiring urgent action) to the more likely events where there is substantial time available for the appropriate governmental authorities to make a judgment whether or not to activate the public alert and notification system. The licensee shall identify and demonstrate that the appropriate governmental authorities have both the administrative and physical means for a backup method of public alerting and notification capable of being used in the event the primary method of alerting and notification is unavailable during an emergency to alert or notify all or portions of the plume exposure pathway EPZ population. The backup method shall have the capability to alert and notify the public within the plume exposure pathway EPZ, but does not need to meet the 15-minute design objective for the primary prompt public alert and notification system. When there is a decision to activate the alert and notification system, the appropriate governmental authorities will determine whether to activate the entire alert and notification system simultaneously or in a graduated or staged manner. The responsibility for activating such a public alert and notification system shall remain with the appropriate governmental authorities.

A licensee under this part or Part 52 shall implement the requirements for a backup method of public alerting and notification under Part 50, Appendix E, Section IV.D.3 no later than the first biennial exercise conducted at the site more than one year after [EFFECTIVE DATE OF THE FINAL RULE].

E. Emergency Facilities and Equipment

* * * * *

5. Arrangements for the services of physicians and other medical personnel qualified to handle radiological emergencies on-site;

* * * * *

8.a. (i) A licensee onsite technical support center and an emergency operations facility from which effective direction can be given and effective control can be exercised during an emergency; (ii) For nuclear power plant licensees and applicants under this part and Part 52, a licensee onsite operational support center;

b. For the emergency operations facility required by paragraph 8.a of this section, either a facility located between 10 miles and 25 miles of the nuclear power reactor site(s), or a primary facility located less than 10

[3] A hostile action is an act directed toward a nuclear power plant or its personnel that includes the use of violent force to destroy equipment, take hostages, and/or intimidate the licensee to achieve an end. This includes attack by air, land, or water using guns, explosives, projectiles, vehicles, or other devices used to deliver destructive force.

miles from the nuclear power reactor site(s) and a backup facility located between 10 miles and 25 miles of the nuclear power reactor site(s). An emergency operations facility may serve more than one nuclear power reactor site. An emergency operations facility may be located more than 25 miles from a nuclear power reactor site as long as provisions are made for locating NRC and offsite responders closer to the nuclear power reactor site so that NRC and offsite responders could interact face-to-face with emergency response personnel entering and leaving the nuclear power reactor site. Provisions for locating NRC and offsite responders closer to a nuclear power reactor site that is more than 25 miles from the emergency operations facility shall include the following: (1) Space for members of an NRC site team and Federal, State, and local responders; (2) additional space for conducting briefings with emergency response personnel; (3) communication links with other licensee and offsite emergency response facilities; (4) computer links to the site with Internet access; and (5) access to copying equipment and office supplies;

c. For the emergency operations facility required by paragraph 8.a of this section, a facility having the following capabilities: (1) The capability for obtaining and displaying plant data and radiological information for each reactor at a nuclear power reactor site and for each nuclear power reactor site that the facility serves, (2) the capability to analyze plant technical information and provide technical briefings on event conditions and prognosis to licensee and offsite response organizations for each reactor at a nuclear power reactor site and for each nuclear power reactor site that the facility serves, and (3) the capability to support response to events occurring simultaneously at more than one nuclear power reactor site if the emergency operations facility serves more than one site;

d. For nuclear power plant licensees and applicants under this part and Part 52, an alternative facility (or facilities) to function as a staging area for augmentation of emergency response staff and having the following characteristics: Accessibility even if the site is under threat or actual attack; communication links with the emergency operations facility, control room, and plant security; the capability to perform offsite notifications; and the capability for engineering assessment activities, including damage control team planning and preparation; for use when onsite emergency facilities cannot be safely accessed during a hostile action event. The alternative facility will also be equipped with general plant drawings and procedures, telephones, and computer links to the site;

e. A licensee with an approved emergency operations facility on [INSERT THE EFFECTIVE DATE OF THE FINAL RULE] shall not be subject to the requirements of paragraph 8.b of this section;

9. * * *

* * * * *

c. Provision for communications among the nuclear power reactor control room, the onsite technical support center, and the emergency operations facility; and among the nuclear facility, the principal State and local emergency operations centers, and the field assessment teams. Such communications systems shall be tested annually.

d. Provisions for communications by the licensee with NRC Headquarters and the appropriate NRC Regional Office Operations Center from the nuclear power reactor control room, the onsite technical support center, and the emergency operations facility. Such communications shall be tested monthly.

F. Training

1. The program to provide for: (a) The training of employees and exercising, by periodic drills, of emergency plans to ensure that employees of the licensee are familiar with their specific emergency response duties, and (b) The participation in the training and drills by other persons whose assistance may be needed in the event of a radiological emergency shall be described. This shall include a description of specialized initial training and periodic retraining programs to be provided to each of the following categories of emergency personnel:

* * * * *

2. The plan shall describe provisions for the conduct of emergency preparedness exercises as follows: Exercises shall test the adequacy of timing and content of implementing procedures and methods, test emergency equipment and communications networks, test the public notification system, and ensure that emergency organization personnel are familiar with their duties.[4]

a. An initial full participation[5] exercise which tests as much of the licensee, State, and local emergency plans as is reasonably achievable without mandatory public participation shall be conducted for each site at which a power reactor is located. Nuclear power plant licensees shall submit exercise scenarios under § 50.4 for prior NRC review and approval.

* * * * *

(ii) For a combined license issued under part 52 of this chapter, this exercise must be conducted within two years of the scheduled date for initial loading of fuel. If the first full participation exercise is conducted more than one year before the scheduled date for initial loading of fuel, an exercise which tests the licensee's onsite emergency plans must be conducted within one year before the scheduled date for initial loading of fuel. This exercise need not have State or local government participation. If FEMA identifies one or more deficiencies in the state of offsite emergency preparedness as the result of the first full participation exercise, or if the Commission finds that the state of emergency preparedness does not provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency, the provisions of § 50.54(gg) apply.

(iii) For a combined licensee issued under part 52 of this chapter, if the applicant currently has an operating reactor at the site, an exercise, either full or partial participation,[6] shall be conducted for each subsequent reactor constructed on the site. This exercise may be incorporated in the exercise requirements of Sections IV.F.2.b. and c. in this appendix. If FEMA identifies one or more deficiencies in the state of offsite emergency preparedness as the result of this exercise for the new reactor, or if the Commission finds that the state of emergency preparedness does not provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency, the provisions of § 50.54(gg) apply.

b. Each licensee at each site shall conduct a subsequent exercise of its onsite emergency plan every 2 years. Nuclear power plant licensees shall submit exercise scenarios under § 50.4 for prior NRC review and approval. The exercise may be included in the full participation biennial exercise required by paragraph 2.c. of this section. In addition, the licensee shall take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response capabilities. The principal functional areas of emergency response include activities such as management and coordination of emergency response, accident assessment, event classification, notification of offsite authorities, assessment of the onsite and offsite impact of radiological releases, protective action recommendation development, protective action decision making, and plant system repair and corrective actions. During these drills, activation of all of the licensee's emergency response facilities (Technical Support Center (TSC), Operations Support Center (OSC), and the Emergency Operations Facility (EOF)) would not be necessary, licensees would have the opportunity to consider accident management strategies, supervised instruction would be permitted, operating staff in all participating facilities would have the opportunity to resolve problems (success paths) rather than have controllers intervene, and the drills may focus on the onsite exercise training objectives.

* * * * *

[4] Use of site specific simulators or computers is acceptable for any exercise.

[5] Full participation when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite local and State authorities and licensee personnel physically and actively take part in testing their integrated capability to adequately assess and respond to an accident at a commercial nuclear power plant. ''Full participation'' includes testing major observable portions of the onsite and offsite emergency plans and mobilization of state, local and licensee personnel and other resources in sufficient numbers to verify the capability to respond to the accident scenario.

[6] Partial participation when used in conjunction with emergency preparedness exercises for a particular site means appropriate offset authorities shall actively take part in the exercise sufficient to test direction and control functions; i.e., (a) protective action decision making related to emergency action levels, and (b) communication capabilities among affected State and local authorities and the licensee.

f. Remedial exercises will be required if the emergency plan is not satisfactorily tested during the biennial exercise, such that NRC, in consultation with FEMA, cannot (1) find reasonable assurance that adequate protective measures can be taken in the event of a radiological emergency or (2) determine that the Emergency Response Organization (ERO) has maintained key skills specific to emergency response. The extent of State and local participation in remedial exercises must be sufficient to show that appropriate corrective measures have been taken regarding the elements of the plan not properly tested in the previous exercises.

g. All training, including exercises, shall provide for formal critiques in order to identify weak or deficient areas that need correction. Any weaknesses or deficiencies that are identified during training evolutions, exercises, or drills must be corrected.

* * * * *

i. Licensees shall use drill and exercise scenarios that provide reasonable assurance that anticipatory responses will not result from preconditioning of participants. Such scenarios for nuclear power plant licensees under this part and Part 52 must include a wide spectrum of radiological releases and events, including hostile action events. Exercise and drill scenarios as appropriate must emphasize coordination among onsite and offsite response organizations.

j. The exercises conducted under paragraph 2 of this section by nuclear power plant licensees under this part and Part 52 must provide the opportunity for the ERO to demonstrate proficiency in the key skills necessary to implement the principal functional areas of emergency response identified in paragraph 2.b of this section. Each exercise must provide the opportunity for the ERO to demonstrate key skills specific to emergency response duties in the control room, TSC, OSC, EOF, and joint information center. Additionally, in each six calendar year exercise planning cycle, nuclear power plant licensees under this part and Part 52 shall vary the content of scenarios during exercises conducted under paragraph 2 of this section to provide the opportunity for the ERO to demonstrate proficiency in the key skills necessary to respond to the following scenario elements: Hostile action directed at the plant site (at an exercise frequency of at least once every 8 years), no radiological release or an unplanned minimal radiological release that does not require public protective actions, an initial classification of or rapid escalation to a Site Area Emergency or General Emergency, implementation of strategies, procedures, and guidance developed under § 50.54(hh), and integration of offsite resources with onsite response. The licensee shall maintain a record of exercises conducted during each six-year exercise planning cycle that documents the contents of scenarios used to comply with the requirements of this paragraph.

k. A licensee under this part or Part 52 shall implement the requirements under Part 50, Appendix E, Section IV.F.2. no later than its first biennial exercise conducted at the site more than one year after [EFFECTIVE DATE OF THE FINAL RULE].

* * * * *

I. Onsite Protective Actions During Hostile Action Events.

For nuclear power plant licensees under this part and Part 52, a range of protective actions to protect onsite personnel during hostile action events must be developed to ensure the continued ability of the licensee to safely shut down the reactor and perform the functions of the licensee's emergency plan.

PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

5. The authority citation for Part 52 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note).

6. In Section 52.79, paragraph (a)(17) is revised to read as follows:

§ 52.79 Contents of applications; technical information in final safety analysis report.

(a) * * *

(17) The information with respect to compliance with technically relevant positions of the Three Mile Island requirements in § 50.34(f) of this chapter, with the exception of §§ 50.34(f)(1)(xii), (f)(2)(ix), (f)(2)(xxv), and (f)(3)(v);

* * * * *

Dated at Rockville, Maryland, this 4th day of May 2009.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. E9–10947 Filed 5–15–09; 8:45 am]

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