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

WHEN: Tuesday, July 14, 2009
9:00 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741-6008



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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0518; Directorate Identifier 2009-SW-22-AD; Amendment 39-15940; AD 2009-13-01]

RIN 2120-AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S-92A Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S-92A helicopters. That AD currently requires removing all main gearbox (MGB) filter bowl assembly mounting titanium studs (titanium studs) and replacing them with steel studs. This amendment requires the same actions as the existing AD as well as changes to the Rotorcraft Flight Manual (RFM). This amendment is prompted by an accident, by recent RFM changes made by the manufacturer that were not available when we issued the existing AD, and by our determination that certain MGB Normal and Emergency procedures in the RFM are unclear, may cause confusion, and may mislead the crew regarding MGB malfunctions, in particular the urgency to land immediately after warning indications of loss of MGB oil pressure and oil pressure below 5 pounds per square inch (psi).

Replacing the titanium studs is intended to prevent their failure, which could result in rapid loss of oil, failure of the MGB, and subsequent loss of control of the helicopter. Changing the RFM procedures is intended to clarify and emphasize certain Normal and

Emergency procedures to give the crew the best available information in the event of certain MGB malfunctions.

DATES: Effective July 1, 2009.

The incorporation by reference of Sikorsky Alert Service Bulletin No. 92-63-014, Revision A, dated March 20, 2009, was approved previously for incorporation by reference by the Director of the Federal Register on April 27, 2009 (74 FR 18977, April 27, 2009).

Comments for inclusion in the Rules Docket must be received on or before August 17, 2009.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this AD from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (203) 383-4866, e-mail address tsslibrary@sikorsky.com, or at <http://www.sikorsky.com>.

Examining the Docket: You may examine the docket that contains the AD, any comments, and other information 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 Docket Operations office (telephone (800) 647-5527) is located in Room W12-140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: John M. Coffey, Flight Test Engineer, FAA, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238-7173, fax (781) 238-7170.

SUPPLEMENTARY INFORMATION: On March 23, 2009, we issued Emergency AD 2009-07-53 for Sikorsky Model S-92A helicopters, which requires, before further flight, removing all titanium studs that attach the MGB filter bowl assembly to the MGB and replacing them with steel studs. That action was prompted by the failure of 2 studs that were found broken during a fatal accident investigation in Canada. Before the accident, the manufacturer was investigating a July 2008 incident that also involved broken studs. In both cases, the broken studs resulted in rapid loss of MGB oil. The failures have been tied to fretting and galling of the original titanium studs. That emergency AD was published as Amendment 39-15886 on April 27, 2009 (74 FR 18977). This AD continues to require removing all titanium studs and replacing them with steel studs.

Since the fatal accident and since issuing AD 2009-07-53, Sikorsky has issued revisions to the Normal and Emergency procedures of the RFM. We have determined that these revisions are necessary because the existing procedures are unclear, may cause confusion, and may mislead the crew regarding MGB malfunctions, in particular the urgency to land immediately after warning indications of loss of MGB oil pressure and oil pressure below 5 psi. This action does not mandate the procedures the pilot must perform in an emergency, but requires making changes to the RFM to clarify and emphasize the Normal and Emergency procedures addressing specified MGB malfunctions, thus giving the pilot the necessary information to make an informed decision. We are superseding the existing AD to include the most recent RFM revisions because the revisions were not available when we originally issued AD 2009-07-53.

We have reviewed Sikorsky Alert Service Bulletin No. 92-63-014A, Revision A, dated March 20, 2009 (ASB), which describes procedures for removing titanium studs and replacing them with steel studs. We have also reviewed the RFM revisions and, after full coordination with Sikorsky, approved them on May 13, 2009. Sikorsky has since assured us that they have provided the revised RFM procedures to all affected operators. The RFM revisions are as follows:

- SA S92A–RFM–000 Revision No. 4,
 - SA S92A–RFM–002 Revision No. 10,
 - SA S92A–RFM–003 Revision No. 10,
 - SA S92A–RFM–004 Revision No. 8,
 - SA S92A–RFM–005 Revision No. 7,
 - SA S92A–RFM–006 Revision No. 8,
- and
- S92A–RFM Supplement No. 3, Revision No. 2.

In addition to the RFM revisions, we have also reviewed associated Errata Sheets, dated June 4, 2009, that provide corrections to those RFM revisions; however, we are not mandating that they be incorporated.

Since an unsafe condition has been identified that is likely to exist or develop on other Sikorsky Model S–92A helicopters of the same type design, this AD supersedes AD 2009–07–53 to require, before further flight, removing all titanium studs and replacing them with steel studs. These actions must be accomplished by following the specified portions of the ASB described previously. Because the critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter, AD 2009–07–53 remains in full effect until the effective date of this AD.

Making the Normal and Emergency RFM revisions that were not available when we issued AD 2009–07–53 is required within 10 hours time-in-service. The short compliance time is required because certain procedures in the existing RFM may be misleading, presenting an unacceptable level of risk, and because the required RFM revisions are already approved by the FAA and available to operators, imposing a minimal burden. Therefore, it is found that notice and opportunity for prior public comment hereon are unnecessary and contrary to the public interest, and that good cause also exists for making this amendment effective in less than 30 days.

We estimate that this AD will affect 35 helicopters of U.S. registry. Replacing the studs will take approximately 6 work hours per helicopter to accomplish at an average labor rate of \$80 per work hour. In accordance with the ASB, required parts and tooling are available at no cost. Making the changes to the RFM will take a minimal amount of time and cost. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be \$16,800, assuming there are no parts and tooling costs.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and

was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2009–0518; Directorate Identifier 2009–SW–22–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Regulatory Findings

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

For the reasons discussed above, I certify that the regulation:

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

We prepared an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. Section 39.13 is amended by removing Amendment 39–15886 (74 FR 18977, April 27, 2009), and by adding a new airworthiness directive (AD), Amendment 39–15940, to read as follows:

2009–13–01 Sikorsky Aircraft Corporation:
Amendment 39–15940. Docket No. FAA–2009–0518; Directorate Identifier 2009–SW–22–AD. Supersedes AD 2009–07–53, Amendment 39–15886, Docket No. FAA–2009–0351, Directorate Identifier 2009–SW–08–AD.

Applicability: Model S–92A helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a main gearbox (MGB) filter bowl assembly mounting titanium stud (titanium stud), which could result in rapid loss of oil, failure of the MGB, and subsequent loss of control of the helicopter; and to clarify and emphasize certain Normal and Emergency procedures to give the crew the best available information in the event of certain MGB malfunctions, accomplish the following:

- (a) Before further flight, for all Model S–92A helicopters with a MGB housing assembly, part number (P/N) 92351–15110–042, –043, or –044, that is not marked with “TS–062–01” near the P/N:
- (1) Remove the titanium studs by following the Accomplishment Instructions in Sikorsky Alert Service Bulletin No. 92–63–014, Rev.

A, dated March 20, 2009 (ASB), paragraph 3.A.

Note 1: Figure 1 of the ASB contains guidance for removal and installation of the studs

(2) Visually inspect the tapped holes and the MGB housing lockring counterbore for

damage. If you find damage in the tapped holes or in the MGB housing lockring counterbore, contact the Boston Aircraft Certification Office for an approved repair.

(3) Install steel studs and mark the MGB housing as "TS-062-01" near the P/N by following the Accomplishment Instructions in the ASB, paragraph 3.C.

(b) Within 10 hours time-in-service, for all helicopters regardless of MGB housing assembly P/N:

(1) Revise the Normal and Emergency procedures sections of the Rotorcraft Flight Manual (RFM) by making the following changes, approved May 13, 2009:

RFM	Remove	Remove	Insert
SA S92A-RFM-000 Part I.	Temporary Revision (T-Rev) No. 1, Revised Main Gearbox Emergency Procedure.	Page 2-12, and Sub-Section 7 "Gear Box Malfunctions" from Section III.	Page 2-12, and Sub-Section 7 "Gear Box Malfunctions" from Section III of SA S92A-RFM-000, Revision No. 4.
SA S92A-RFM-002 Part I.	T-Rev No. 5, Revised Main Gearbox Emergency Procedure.	Page 2-13, and Sub-Section 7 "Gear Box Malfunctions" from Section III.	Page 2-13, and Sub-Section 7 "Gear Box Malfunctions" from Section III of SA S92A-RFM-002, Revision No. 10.
SA S92A-RFM-003 Part I.	T-Rev No. 4, Revised Main Gearbox Emergency Procedure.	Page 2-13, and Sub-Section 7 "Gear Box Malfunctions" from Section III.	Page 2-13, and Sub-Section 7 "Gear Box Malfunctions" from Section III of SA S92A-RFM-003, Revision No. 10.
SA S92A-RFM-004 Part I.	T-Rev No. 4, Revised Main Gearbox Emergency Procedure.	Page 2-12, and Sub-Section 7 "Gear Box Malfunctions" from Section III.	Page 2-12, and Sub-Section 7 "Gear Box Malfunctions" from Section III of SA S92A-RFM-004, Revision No. 8.
SA S92A-RFM-005 Part I.	T-Rev No. 3, Revised Main Gearbox Emergency Procedure.	Page 2-13, and Sub-Section 7 "Gear Box Malfunctions" from Section III.	Page 2-13, and Sub-Section 7 "Gear Box Malfunctions" from Section III of SA S92A-RFM-005, Revision No. 7.
SA S92A-RFM-006 Part I.	T-Rev No. 2, Revised Main Gearbox Emergency Procedure.	Page 2-13, and Sub-Section 7 "Gear Box Malfunctions" from Section III.	Page 2-13, and Sub-Section 7 "Gear Box Malfunctions" from Section III of SA S92A-RFM-006, Revision No. 8.
S92A-RFMS No. 3	N/A	Sub-Section 7 "Gear Box Malfunctions" from Section III.	Sub-Section 7 "Gear Box Malfunctions" from Section III of S92A-RFM Supplement No. 3, Revision No. 2.

All paragraphs of subsection 7 "Gear Box Malfunctions" starting with paragraph 7.0 are affected.

Note 2: Inserting the following revisions, approved on May 13, 2009, and their associated Errata Sheets, dated June 4, 2009, into the RFM, as applicable, satisfies the requirements of this AD:

- (i) SA S92A-RFM-000 Revision No. 4,
 - (ii) SA S92A-RFM-002 Revision No. 10,
 - (iii) SA S92A-RFM-003 Revision No. 10,
 - (iv) SA S92A-RFM-004 Revision No. 8,
 - (v) SA S92A-RFM-005 Revision No. 7,
 - (vi) SA S92A-RFM-006 Revision No. 8,
- and
- (vii) S92A-RFM Supplement No. 3, Revision No. 2.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Boston Aircraft Certification Office, FAA, Attn: John M. Coffey, FAA, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238-7173, fax (781) 238-7170, for information about previously approved alternative methods of compliance.

(d) Special flight permits will not be issued.

(e) Remove and replace the titanium studs by following the specified portions of Sikorsky Alert Service Bulletin No. 92-63-014, Revision A, dated March 20, 2009. The Director of the Federal Register previously approved the incorporation by reference of this information on April 27, 2009 under 5 U.S.C. 552(a) and 1 CFR part 51 (74 FR 18977, April 27, 2009). Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (203) 383-4866, e-mail address tsslibrary@sikorsky.com or at

<http://www.sikorsky.com>. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(f) This amendment becomes effective on July 1, 2009.

Issued in Fort Worth, Texas, on June 9, 2009.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E9-14081 Filed 6-15-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 192, 470, 625, 634, 650, 655, 772, 971, 972, 973, 1206, 1208, 1210, and 1215

[FHWA Docket No. FHWA-2009-0028]

RIN 2125-AF30

Address Correction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending a number of its regulations to reflect the move of DOT's headquarters site in Washington, DC.

DATES: *Effective Date:* June 16, 2009.

FOR FURTHER INFORMATION CONTACT: Jennifer Outhouse, Office of Chief Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590; (202) 366-1381.

SUPPLEMENTARY INFORMATION: This publication makes corrections to the FHWA regulations to update the DOT headquarters address. Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment are unnecessary under 5 U.S.C. 553(b). Further, since the amendment merely makes technical corrections and updates, the FHWA finds good cause under 5 U.S.C. 553(d)(3) for the final rule to be effective on the date of publication in the **Federal Register**.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under Executive Order 12866 and DOT regulatory Policies and Procedures (44 FR 11034). It was not reviewed by the Office of Management and Budget. There are no costs associated with this rule.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (Federalism). This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore the consultation requirements of Executive Order 13132 do no apply.

C. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal government and does not impose substantial direct compliance costs, the funding and consultations requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act, 5 U.S.C. 553, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. We also do not believe this rule would impose any costs on small entities because it simply makes nonsubstantive corrections. Therefore, the FHWA certifies this final rule will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

F. Unfunded Mandates Reform Act

The Federal Highway Administration has determined that the requirements of the Title II of the Unfunded Mandates Reform Act of 1995 do no apply to this rulemaking.

List of Subjects

23 CFR Part 192

Highways, Reporting and recordkeeping requirements.

23 CFR Part 230, Subpart C, Appendix A

Highways, Reporting and recordkeeping requirements.

23 CFR Part 470

Highways, Reporting and recordkeeping requirements.

23 CFR Part 625

Highways, Reporting and recordkeeping requirements.

23 CFR Part 634

Highways, Reporting and recordkeeping requirements.

23 CFR Part 650

Highways, Reporting and recordkeeping requirements.

23 CFR Part 655

Highways, Reporting and recordkeeping requirements.

23 CFR Part 772

Highways, Reporting and recordkeeping requirements.

23 CFR Part 971

Highways, Reporting and recordkeeping requirements.

23 CFR Part 972

Highways, Reporting and recordkeeping requirements.

23 CFR Part 973

Highways, Reporting and recordkeeping requirements.

23 CFR Part 1206

Highways, Reporting and recordkeeping requirements.

23 CFR Part 1208

Highways, Reporting and recordkeeping requirements.

23 CFR Part 1210

Highways, Reporting and recordkeeping requirements.

23 CFR Part 1215

Highways, Reporting and recordkeeping requirements.

Issued on: April 21, 2009.

Jeffrey F. Paniati,

Acting Deputy Administrator, Federal Highway Administration.

■ In consideration of the foregoing, the FHWA amends Parts 192, 470, 625, 634, 650, 655, 772, 971, 972, 973, 1206, 1208, 1210, and 1215 of title 23, Code of Federal Regulations, as follows:

TITLE 23—HIGHWAYS

PARTS 192, 470, 625, 634, 650, 655, 772, 971, 972, 973, 1206, 1208, 1210, AND 1215 [AMENDED]

§§ 192.10, 470.105, 625.4, 634.2, 650.317, 655.603, 772.17, 971.212, 972.212, 973.212, 1206.5, 1208.6, 1210.10, and 1215.6 [Amended]

■ 1. In Title 23, remove text specified in the “Remove” column and add in its place the text in the “Add” column in the sections indicated below:

Section	Remove	Add
192.10(b)	400 Seventh Street, SW	1200 New Jersey Avenue, SE.
Part 230, Subpart C, Appendix A, FN 1	400 7th St., SW	1200 New Jersey Avenue, SE.
470.105(a)	400 Seventh Street, SW	1200 New Jersey Avenue, SE.
625.4(d) introductory text	400 Seventh Street, SW., Washington, DC, in Room 2200.	
634.2 in the definition of <i>High-visibility safety apparel.</i>	400 Seventh Street, SW., Room 4232	1200 New Jersey Avenue, SE., Washington, DC.
650.317(a)	400 Seventh Street, SW., Washington, DC, in Room 2200.	1200 New Jersey Avenue, SE.
655.603(c), footnote 1	400 Seventh Street, SW	1200 New Jersey Avenue, SE., Washington, DC.
772.17(a)	400 Seventh Street, SW., Room 3240	1200 New Jersey Avenue, SE.
971.212(b), footnote 3	Room 3407, 400 Seventh Street, SW	1200 New Jersey Avenue, SE.
972.212(b), footnote 3	Room 3407, 400 Seventh Street, SW	1200 New Jersey Avenue, SE.
973.212(c), footnote 3	Room 3407, 400 Seventh Street, SW	1200 New Jersey Avenue, SE.
1206.5(b)	400 Seventh Street, SW	1200 New Jersey Avenue, SE.
1208.6(b)	400 Seventh Street, SW	1200 New Jersey Avenue, SE.
1210.10(b)	400 Seventh Street, SW	1200 New Jersey Avenue, SE.
1215.6(b)	400 Seventh Street, SW	1200 New Jersey Avenue, SE.

[FR Doc. E9-13990 Filed 6-15-09; 8:45 am]

BILLING CODE 4910-22-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[EPA-HQ-SFUND-2009-0144; FRL-8919-3]

RIN 2050-AG53

Inclusion of CERCLA Section 128(a) State Response Programs and Tribal Response Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule revises regulations to include State Response Programs and Tribal Response Programs under Section 128(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as among the Environmental Program Grants eligible for inclusion in a Performance Partnership Grant (PPG). The rule also adds State Response Program and Tribal Response Program specific provisions.

DATES: This rule is effective on June 16, 2009.

ADDRESSES: The mailing address of the Office of Brownfields and Land Revitalization, Office of Solid Waste and Emergency Response, is U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., MC 5105T, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For general information contact the U.S. EPA's Virginia Fornillo, Office of Solid Waste and Emergency Response, Office of Brownfields and Land Revitalization, at (202) 566-2770 (fornillo.virginia@epa.gov), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460-0002, Mail Code 5105T.

SUPPLEMENTARY INFORMATION:

I. Background

State Response Program Grants and Tribal Response Program Grants, authorized under Section 128(a) of CERCLA, are awarded to States and Tribes to establish or enhance the response program of the State or Tribe; capitalize a revolving loan fund for Brownfield remediation under section 104(k)(3); or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State or Tribal

response program. Public Law 104-134 authorizes EPA to combine State and Tribal Assistance Grant (STAG) "categorical" program grant funds into PPGs. The CERCLA 128(a) State and Tribal Response program grants are funded from STAG categorical appropriations and are eligible for inclusion under 40 CFR 35.133 and 35.533 in a PPG. On August 20, 2004, EPA implemented a pilot program authorizing EPA Regional Offices to add CERCLA 128(a) State and Tribal Grant program funds into PPGs for one state and one tribe in each region (69 FR 51756).

II. This Action

The intent of this action is to include CERCLA 128(a) grants in the list of grants eligible to be included in a Performance Partnership Grant (PPG). Consistent with current Agency guidance on using CERCLA 128 funds, EPA has determined that funds awarded to states and tribes under CERCLA 128(a)(1)(B)(ii) to capitalize a revolving loan fund for Brownfield remediation under section 104(k)(3); or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State or Tribal response program are not eligible for inclusion in PPGs. EPA's regulations implementing PPGs are found at 40 CFR 35.101, 40 CFR 35.130-35.138, 40 CFR 35.501 and 40 CFR 35.530-35.538. This rule amends these regulations to include State Response Programs Section CERCLA 128(a) under Title 40 Part 35 Subpart A and Tribal Response Programs Section CERCLA 128(a) under Title 40 Part 35, Subpart B as a PPG eligible grant program. The rule also adds State Response Program and Tribal Response Program specific provisions to 40 CFR Part 35, Subparts A and B.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to OMB review. Because this grant action is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments. Although this action does not generally create new binding legal requirements, where it does, such requirements do not substantially and

directly affect Tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). Although this grant action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999), EPA consulted with states in the development of these grant guidelines. This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children. This action is not subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Since this grant action, when finalized, will contain legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit its final action in its report to Congress under the Act.

List of Subjects in 40 CFR Part 35

Environmental protection, Air pollution control, Grant programs—environmental protection, Grant programs—Indians, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 9, 2009.

Lisa P. Jackson,
Administrator.

■ EPA amends 40 CFR Part 35 as follows:

PART 35—STATE AND LOCAL ASSISTANCE—[AMENDED]

■ 1. The authority citation for part 35, subpart A continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 300f et seq.; 42 U.S.C. 6901 et seq.; 7 U.S.C. 136 et seq.; 15 U.S.C. 2601 et seq.; 42 U.S.C. 13101 et seq.; Public Law 104-134, 110 Stat. 1321, 1321-299 (1996); Public Law 105-65, 111 Stat. 1344, 1373 (1997); 5. 105-276, 112 Stat. 2461, 2499 (1988).

Subpart A—[Amended]

■ 2. Amend § 35.101 by adding paragraph (a)(20) to read as follows:

§ 35.101 Environmental programs covered by the subpart.

(a) * * *

(20) State Response Program Grants (section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)).

* * * * *

■ 3. Section 35.133 is amended by revising paragraph (a) to read as follows:

§ 35.133 Programs eligible for inclusion.

(a) Eligible programs. Except as provided in paragraph (b) of this section, the environmental programs eligible, in accordance with appropriation acts, for inclusion in a Performance Partnership Grant are listed in § 35.101(a)(2) through (17) and (20). (Funds available from the section 205(g) State Administration Grants program (§ 35.100(b)(18)) and the Water Quality Management Planning Grant program (§ 35.100(b)(19)) and funds awarded to states under State Response Program Grants (§ 35.100(b)(20)) to capitalize a revolving loan fund for Brownfield remediation or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions may not be included in Performance Partnership Grants.)

* * * * *

■ 4. Subpart A is amended by adding an undesignated center heading and §§ 35.419, 35.420 and 35.421 to read as follows:

Subpart A—[Amended]

State Response Program Grants (CERCLA Section 128(A))

§ 35.419 Purpose.

(a) Purpose of section. Sections 35.419 through 35.421 govern State Response Program Grants (as defined in section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)).

(b) Purpose of program. State Response Program Grants are awarded to States to establish or enhance the

response program of the State; capitalize a revolving loan fund for Brownfield remediation under section 104(k)(3) of CERCLA; or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State response program.

§ 35.420 Basis for allotment.

The Administrator allots response program funds to each EPA regional office. Regional Administrators award funds to States based on their programmatic needs and applicable EPA guidance.

§ 35.421 Maximum federal share.

The Regional Administrator may provide up to 100 percent of the approved work plan costs with the exception of the cost shares required by CERCLA 104(k)(9)(B)(iii) for capitalization of revolving loan funds under CERCLA 104(k)(3).

■ 5. Amend § 35.501 by adding paragraph (a)(10) to read as follows:

§ 35.501 Environmental programs covered by the subpart.

(a) * * *

(10) Tribal Response Program Grants (section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)).

* * * * *

■ 6. Section 35.533 is amended by revising paragraph (a) to read as follows:

§ 35.533 Programs eligible for inclusion.

(a) Eligible programs. Except as provided in paragraph (b) of this section, the environmental programs eligible for inclusion in a Performance Partnership Grant are listed in § 35.101(a)(2) through (10) of this subpart. Funds awarded to tribes under Tribal Response Program Grants (§ 35.101(a)(10)) to capitalize a revolving loan fund for Brownfield remediation or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions may not be included in Performance Partnership Grants.

* * * * *

■ 7. Subpart B is amended by adding a new undesignated center heading and §§ 35.736, 35.737 and 35.738 to read as follows:

Subpart B—[Amended]

Tribal Response Program Grants (CERCLA Section 128(A))

§ 35.736 Purpose.

(a) Purpose of section. Sections 35.736 through 35.738 govern Tribal Response Program Grants (as defined in section 128(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)).

(b) Purpose of program. Tribal Response Program Grants are awarded to Tribes to establish or enhance the response program of the Tribe; capitalize a revolving loan fund for brownfield remediation under section 104(k)(3) of CERCLA; or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a Tribal response program.

§ 35.737 Basis for allotment.

The Administrator allots response program funds to each EPA regional office. Regional Administrators award funds to Tribes based on their programmatic needs and applicable EPA guidance.

§ 35.738 Maximum federal share.

The Regional Administrator may provide up to 100 percent of the approved work plan costs with the exception of the cost shares required by CERCLA 104(k)(9)(B)(iii) for capitalization of revolving loan funds under CERCLA 104(k)(3).

[FR Doc. E9-14114 Filed 6-15-09; 8:45 am] BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2007-0287; FRL-8918-2]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Northern Virginia Reasonably Available Control Technology Under the 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This SIP revision consists of a demonstration that the Virginia portion (Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park;

Counties of Arlington, Fairfax, Loudon, and Prince William) of the Washington, DC-MD-VA 8-Hour Ozone

Nonattainment Area meets the requirements of reasonably available control technology (RACT) for oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) set forth by the Clean Air Act (CAA). These requirements are based on: Certification that previously adopted RACT controls in Virginia's SIP that were approved by EPA under the 1-hour ozone national ambient air quality standard (NAAQS) are based on the currently available technically and economically feasible controls, and that they continue to represent RACT for the 8-hour implementation purposes; a negative declaration demonstrating that no facilities exist in the Virginia portion of the Washington, DC-MD-VA area for certain control technology guideline (CTG) categories; and a new RACT determination for a specific source. This action is being taken under the CAA.

DATES: *Effective Date:* This final rule is effective on July 16, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2007-0287. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814-2036, or by e-mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 19, 2009 (74 FR 11702), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of the requirements of RACT under the 8-hour ozone NAAQS. EPA received no comments on the proposal to approve Virginia's SIP

revision. The formal SIP revision was submitted by the Commonwealth of Virginia on October 23, 2006.

II. Summary of SIP Revision

Virginia's SIP revision contains the requirements of RACT set forth by the CAA under the 8-hour ozone NAAQS. Virginia's SIP revision is consistent with the process in the Phase 2 Rule preamble, and satisfies the requirements of RACT set forth by the CAA under the 8-hour ozone NAAQS. Virginia's SIP revision satisfies the 8-hour RACT requirements through (1) certification that previously adopted RACT controls in Virginia's SIP that were approved by EPA under the 1-hour ozone NAAQS are based on the currently available technically and economically feasible controls, and continues to represent RACT for the 8-hour implementation purposes; (2) a negative declaration demonstrating that no facilities exist in the Virginia portion of the Washington, DC-MD-VA area for the applicable CTG categories; and (3) a new RACT determination for a single source. Other requirements of Virginia's 8-hour RACT and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1-1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are

prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1-1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by Federal law to maintain program delegation, authorization or approval," since Virginia must "enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * *." The opinion concludes that "[r]egarding § 10.1-1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval."

Virginia's Immunity law, Va. Code Sec. 10.1-1199, provides that "[t]o the extent consistent with requirements imposed by Federal law," any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since "no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity."

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or

any, state audit privilege or immunity law.

IV. Final Action

EPA is approving the 8-hour RACT as a revision to the Commonwealth of Virginia's SIP. Virginia's SIP revision contains the requirements of RACT set forth by the CAA under the 8-hour ozone NAAQS. This SIP revision was submitted on October 23, 2006.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 17, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the Commonwealth of Virginia's RACT provisions under the 8-hour ozone NAAQS, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 5, 2009.
William C. Early,
Acting Regional Administrator, Region III.

■ 40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (e) is amended by adding the entry for "RACT under the 8-hour ozone NAAQS"—Virginia portion of the Washington, DC-MD-VA area at the end of the table to read as follows:

§ 52.2420 Identification of plan.

* * * * *
 (e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* RACT under the 8-Hour ozone NAAQS.	* Virginia portion of the Washington, DC-MD-VA area.	* 10/23/06	* 06/16/09, [Insert page number where the document begins].	*

[FR Doc. E9-14018 Filed 6-15-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2008-0595; FRL-8918-1]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Reasonably Available Control Technology Under the 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the District of Columbia. This SIP revision consists of a demonstration that the District of Columbia meets the requirements of reasonably available control technology (RACT) for nitrogen oxides (NO_x) and volatile organic compounds (VOCs) set forth by the Clean Air Act (CAA). This SIP revision demonstrates that all requirements for RACT are met either through: Certification that previously adopted RACT controls in the District of Columbia's SIP that were approved by EPA under the 1-hour ozone National Ambient Air Quality Standard (NAAQS) are based on the currently available technically and economically feasible controls, and that they continue to represent RACT for the 8-hour implementation purposes; and a negative declaration demonstrating that no facilities exist in the District of Columbia for the applicable control technology guideline (CTG) categories. This action is being taken under the CAA.

DATES: *Effective Date:* The final rule is effective on July 16, 2009.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2008-0595. All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy

during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the District of Columbia Department of the Environment, 51 N Street, NE., 6th Floor, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Patrick J. Egan, (215) 814-3167, or by e-mail at egan.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 25, 2009 (75 FR 12778), EPA published a notice of proposed rulemaking (NPR) for the District of Columbia. The NPR proposed approval of the requirements of RACT under the 8-hour Ozone NAAQS. EPA received no comments on the proposal to approve the District of Columbia SIP revision. The formal SIP revision was submitted by the District of Columbia on September 22, 2008.

II. Summary of SIP Revision

On September 22, 2008, the District of Columbia Department of Environment (DDOE) submitted a revision to its SIP that addresses the requirements of RACT under the 8-hour ozone NAAQS set forth by the CAA. The District of Columbia's SIP revision is consistent with the process in the Phase 2 Rule preamble, and satisfies the requirements of RACT set forth by the CAA under the 8-hour ozone NAAQS. The District of Columbia's SIP revision satisfies the 8-hour RACT requirements through a certification that previously adopted RACT controls in the District of Columbia's SIP that were approved by EPA under the 1-hour ozone NAAQS are based on the currently available technically and economically feasible controls, and continues to represent RACT for the 8-hour implementation purposes and a negative declaration demonstrating that facilities exist in the District of Columbia for the applicable control technology guideline (CTG) categories.

III. Final Action

EPA is approving the District of Columbia SIP revision that addresses the requirements of RACT under the 8-hour ozone NAAQS. The District of Columbia's SIP revision was submitted on September 22, 2008.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.

42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by August 17, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the District of Columbia's RACT provisions under the 8-hour ozone NAAQS, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 5, 2009.
William C. Early,
Acting Regional Administrator, Region III.
■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart J—District of Columbia

■ 2. In § 52.470, the table in paragraph (e) is amended by adding the entry for "RACT under the 8-hour ozone NAAQS"—District of Columbia—at the end of the table to read as follows:

§ 52.470 Identification of plan.

* * * * *
(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
RACT under the 8-Hour ozone NAAQS.	District of Columbia	9/22/08	6/16/09, [Insert page number where the document begins].	

Proposed Rules

Federal Register

Vol. 74, No. 114

Tuesday, June 16, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21 and 27

[Docket No. SW021; Notice No. 27-021-SC]

Special Conditions: Robinson Helicopter Company R66 Helicopters, 14 CFR 27.1309, Installation of an Autopilot (AP) Stabilization Augmentation System (SAS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for installing an Autopilot Stabilization Augmentation System (AP/SAS) in the Robinson Helicopter Company (Robinson) Model R66 helicopter. This helicopter will have novel or unusual design features associated with installing a complex AP/SAS that has potential failure modes with more severe adverse results than those envisioned by the existing applicable airworthiness standards. The applicable airworthiness standards do not contain adequate or appropriate safety standards for this design feature. This proposed special condition contains the added safety standards the Administrator considers necessary to establish a level of safety equivalent to the existing airworthiness standards.

DATES: We must receive your comments by July 31, 2009.

ADDRESSES: Mail two copies of your comments to: Federal Aviation Administration, Rotorcraft Directorate, Attn: Rules Docket (ASW-111), Docket No. SW021, 2601 Meacham Blvd., Fort Worth, Texas 76137. You may deliver two copies to the Rotorcraft Directorate at this address. You must mark your comments for: Docket No. SW021. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety

Engineer, FAA, Rotorcraft Directorate (ASW-112), Aircraft Certification Service, 2601 Meacham Blvd., Fort Worth, Texas, 76137; telephone (817) 222-5114; facsimile (817) 222-5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel on these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this document between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring additional expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On November 1, 2006, Robinson proposed a change to the certification basis, through the FAA's Los Angeles Aircraft Certification Office (LA ACO), that would include installing an AP/SAS as part of the application for type certification for the Robinson Model R66 helicopter. The Robinson Model R66 helicopter is a part 27 Normal category, single turbine engine, conventional helicopter designed for civil operation. The helicopter is capable of carrying four passengers with one pilot, and has a maximum gross weight of approximately 2,650 pounds. The major design features include a 2-

blade, fully articulated main rotor, a 2-blade anti-torque tail rotor, a skid landing gear, and a visual flight rule (VFR) basic avionics configuration. Robinson proposes offering the Hoh Aeronautics, Inc. two-axis AP/SAS as a factory installed option.

Type Certification Basis

Under 14 CFR 21.17, Robinson must show that the Model R66 helicopter meets the applicable provisions of 14 CFR part 27, as amended by Amendments 27-1 through 27-40.

If the Administrator finds the applicable airworthiness standards, as they apply to the type certification, do not contain adequate or appropriate safety standards because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

Special conditions, as appropriate, are defined in § 11.19, and issued by following the procedures in § 11.38 and become part of the type certification basis under § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the Type Certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special condition would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Robinson Model R66 helicopter will be required to show compliance with the current applicable requirements without the optional AP/SAS system. The Hoh Aeronautics, Inc. AP/SAS system will constitute a novel or unusual design feature when installed in the Model R66 helicopter. Although this AP/SAS system performs non-critical control functions, the possible failure modes for this system and their effects on the ability of the helicopter to continue safe flight and landing are more severe than those envisioned when the present safety standards were promulgated. Therefore, additional safety standards are necessary.

Discussion

Failure Condition Categories

The effect on safety is not adequately covered under § 27.1309 for the application of new technology and new application of standard technology.

Specifically, the present provisions of § 27.1309(c) do not adequately address the safety requirements for systems whose failures could result in Catastrophic or Hazardous/Severe-Major failure conditions, or for complex systems whose failures could result in Major failure conditions.

To comply with the provision of the special condition, we propose to require that Robinson provide the FAA with a Systems Safety Assessment (SSA) for the final Hoh Aeronautics Inc. AP/SAS installation configuration that will adequately address the safety objectives established by the Functional Hazard Assessment (FHA) and the Preliminary System Safety Assessment (PSSA), including the Fault Tree Analysis (FTA). This must ensure that all failure modes and their resulting effects are adequately addressed for the installed AP/SAS. The SSA process, FHA, PSSA, and FTA are all parts of the overall Safety Assessment (SA) process discussed in FAA Advisory Circular (AC) 27-1B (Certification of Normal Category Rotorcraft) and SAE document ARP 4761 (Guidelines and Methods for Conducting the Safety Assessment Process on civil airborne Systems and Equipment).

This special condition requires that the AP/SAS system installed on a Robinson Model R66 helicopter meet these requirements to adequately address the failure effects identified by the FHA, and subsequently verified by the SSA, within the defined design integrity requirements.

Applicability

As discussed, this special condition is applicable to the Robinson Model R66 helicopter with the Hoh Aeronautics, Inc. AP/SAS installed as a factory option under the pending application for the Robinson Model R66 type certificate. Should Robinson Helicopter Company apply at a later date for a change to the type certificate to include another model incorporating this same factory installed option Hoh Aeronautics, Inc. AP/SAS novel or unusual design feature, this special condition would also apply to that model, under the provisions of § 21.101(b)(1).

Conclusion

This action affects only the Robinson R66 model series of helicopter with the novel or unusual design features of a Hoh Aeronautics, Inc. AP/SAS installed. It is not a rule of general applicability.

List of Subjects in 14 CFR Parts 21 and 27

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701-44702, 44704, 44709, 44711, 44713, 44715, 45303.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Robinson Model R66 helicopters:

For installation of a Hoh Aeronautics, Inc. Autopilot/Stability Augmentation System on a Robinson Model R66 helicopter, the system must be designed and installed so that the failure conditions identified in the Functional Hazard Assessment and addressed by the System Safety Assessment, after design completion, are adequately addressed in accordance with the Definitions for the Failure Condition Categories and the Requirements (including the design integrity, design environmental, and test and analysis requirements) of this special condition.

Definitions

Failure Conditions are conditions that result from a failure and are classified, according to the severity of their effects on the rotorcraft, into one of the following categories:

(1) *No Effect*—Failure Conditions that would have no effect on safety; for example, Failure Conditions that would not affect the operational capability of the rotorcraft or increase crew workload; however, could result in an inconvenience to the occupants, excluding the flight crew.

(2) *Minor*—Failure conditions which would not significantly reduce rotorcraft safety, and would involve crew actions that are well within their capabilities. Minor failure conditions would include, for example, a slight reduction in safety margins or functional capabilities, a slight increase in crew workload such as routine flight plan changes, or result in some physical discomfort to occupants.

(3) *Major*—Failure conditions which would reduce the capability of the rotorcraft or the ability of the crew to cope with adverse operating conditions to the extent there would be, for example, a significant reduction in safety margins or functional capabilities; a significant increase in crew workload or result in impairing crew efficiency; physical distress to occupants, including injuries; or physical discomfort to the flight crew.

(4) *Hazardous/Severe-Major*—Failure conditions that would reduce the capability of the rotorcraft or the ability of the crew to cope with adverse operating conditions to the extent there would be:

- (i) A large reduction in safety margins or functional capabilities;
- (ii) Physical distress or excessive workload that would impair the flight crew's ability to the extent that they could not be relied on

to perform their tasks accurately or completely; or

(iii) Possible serious or fatal injury to a passenger or a cabin crewmember, excluding the flight crew.

Note: Hazardous/Severe-Major failure conditions can include events that are manageable by the crew by use of proper procedures, which, if not carried out correctly or in a timely manner, may result in a Catastrophic Event.

(5) *Catastrophic*—Failure Conditions which would result in multiple fatalities to occupants, fatalities or incapacitation to the flight crew, or result in the inability of the rotorcraft to continue safe flight and landing.

Requirements

Robinson must comply with the existing requirements of § 27.1309 for all applicable design and operational aspects of the AP/SAS with the failure condition categories of No Effect, Minor, and for non-complex systems whose failure condition category is classified as Major. Robinson must also comply with the requirements of this special condition for all applicable design and operational aspects of the AP/SAS with the failure condition categories of Catastrophic and Hazardous/Severe-Major, and for complex systems classified as a Major failure condition category.

A complex system is a system whose operations, failure modes, or failure effects are difficult to understand without the aid of analytical methods (for example, Fault Tree Analysis, Failure Modes and Effect Analysis, Functional Hazard Assessment, *etc.*).

a. Design Integrity Requirements

Each of the failure condition categories defined in this special condition relate to the corresponding aircraft system integrity requirements. The design integrity requirements for the Hoh Aeronautics, Inc. AP/SAS as they relate to the allowed probability of occurrence for each failure condition category, and the proposed software design assurance level, are as follows:

Major—Condition classified as a “Major failure condition” and resulting in Major effects must be shown to be improbable, or at or less than 1×10^{-5} failures/hour, and associated software must be developed to the RTCA/DO-178B (Software Considerations in Airborne Systems And Equipment Certification) software design assurance Level C.

Hazardous/Severe-Major—Condition classified as a “Hazardous/Severe-Major failure condition” and resulting in Hazardous/Severe-Major effects must be shown to be extremely remote or at or less than 1×10^{-7} failures/hour, and associated software must be developed to the RTCA/DO-178B (Software Considerations in Airborne Systems And Equipment Certification) software design assurance Level B.

Catastrophic—Condition classified as a “Catastrophic failure condition” and resulting in Catastrophic effects must be shown to be extremely improbable or at or less than 1×10^{-9} failures/hour, and associated software must be developed to the

RTCA/DO-178B (Software Considerations in Airborne Systems And Equipment Certification) Level A software design assurance level.

b. Design Environmental Requirements

Robinson must qualify the AP/SAS system equipment to the appropriate environmental level in the RTCA document DO-160F (Environmental Conditions and Test Procedures for Airborne Equipment), for all relevant aspects. This must show that the AP/SAS system performs its intended function under any foreseeable operating condition, which includes the expected environment in which the AP/SAS is intended to operate. Some of the main considerations for environmental concerns are installation locations and the resulting exposure to environmental conditions for the AP/SAS system equipment, including considerations for other equipment that may be affected environmentally by the AP/SAS equipment installation. The level of environmental qualification must be related to the severity of the considered failure condition and effects on the aircraft.

c. Test & Analysis Requirements

Compliance with these requirements may be shown by a variety of methods, which typically consist of analysis, flight tests, ground tests, and simulation, as a minimum. Compliance methodology is partly related to the associated failure condition category. If the AP/SAS is a complex system, compliance with the requirements for aspects of the AP/SAS that can result in failure conditions classified as Major may be shown by analysis, in combination with appropriate testing to validate the analysis. Compliance with the requirements for aspects of the AP/SAS that can result in failure conditions classified as Hazardous/Severe-Major may be shown by flight-testing in combination with analysis and simulation, and the appropriate testing to validate the analysis. Flight tests may be limited for this classification of failures due to safety considerations.

Compliance with the requirements for aspects of the AP/SAS that can result in failure conditions classified as Catastrophic may be shown by analysis and validated by appropriate testing in combination with simulation. Very limited flight tests in combination with simulation may be used as a part of a showing of compliance for failures in this classification. Flight tests are performed only in circumstances that use operational variations or extrapolations from other flight performance aspects to address flight safety.

Issued in Fort Worth, Texas, on June 11, 2009.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E9-14103 Filed 6-15-09; 8:45 am]

BILLING CODE 4910-13-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 60, 61 and 63

[EPA-HQ-OAR-2008-0531; FRL-8917-3]

RIN 2060-AP23

Restructuring of the Stationary Source Audit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The action proposes amendments to the General Provisions to allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as is the current practice. In addition, this proposed rule incorporates by reference Volume 3, "General Requirements for Environmental Proficiency Test Providers" adopted December 22, 2007, as an example of an acceptable accredited proficiency test sample provider (APTSP) technical criteria document. This document outlines the criteria an accredited provider program must meet for the samples to be acceptable.

Requirements pertaining to the audit samples have all been moved to the General Provisions and have been removed from the test methods because the current language in the test methods regarding audit samples is inconsistent from method to method. Therefore, deleting all references to audit samples in the test methods eliminates any possible confusion and inconsistencies. Under this proposed amendment, the requirement to use an audit sample during a compliance test will apply to all test methods for which a commercially available audit exists.

DATES: Comments must be received on or before July 16, 2009. Under the Paperwork Reduction Act, comments on the information collection provisions are best assured of having full effect if the Office of Management and Budget (OMB) receives a copy of your comments on or before July 16, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-HQ-OAR-2008-0531, by one of the following methods:

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

- *E-mail:* Comments may be sent by electronic mail (e-mail) to a-and-r-docket@epa.gov, Attention Docket ID No. EPA-HQ-OAR-2008-0531.

- *Fax:* Fax your comments to: 202-566-9744, Attention Docket ID No. EPA-HQ-OAR-2008-0531.

- *Mail:* Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. EPA-HQ-OAR-2008-0531. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attn:* Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.

- *Hand Delivery or Courier:* Deliver your comments to: EPA Docket Center, 1301 Constitution Ave., NW., Room 3334, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0531. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA

Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.
Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Restructuring of the Stationary Source Audit Program Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding

legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket Center is (202) 566-1742.
FOR FURTHER INFORMATION CONTACT: For questions concerning today's proposed rule, contact Ms. Candace Sorrell, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (E143-02), Research Triangle Park, NC 27711; *telephone number:* (919) 541-1064; *fax number:* (919) 541-0516; *e-mail address:* sorrell.candace@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action would apply to you if you operate a stationary source that is

subject to applicable requirements to conduct compliance testing under 40 CFR parts 60, 61, and 63.

In addition, this action would apply to you if Federal, State, or local agencies take certain additional actions. For example, this action would apply if State or local agencies implement regulations using any of the stationary source compliance test methods in Appendix M of Part 51 by adopting these methods in rules or permits (either by incorporation by reference or by duplicating the method in its entirety).

The source categories and entities potentially affected include, but are not limited to, the following:

Category	NAICS ^a	Examples of regulated entities
Industry	336111	Surface Coating.
Industry	336112	
Industry	332410	Industrial, Commercial, Institutional Steam Generating Units.
Industry	332410	Electric Generating Units.
Industry	333611	Stationary Gas Turbines.
Industry	324110	Petroleum Refineries.
Industry	562213	Municipal Waste Combustors.
Industry	322110	Pulp and Paper Mills.

^a North American Industry Classification System.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2008-0531. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. Where Can I Obtain a Copy of This Action and Other Related Information?

In addition to being available in the docket, an electronic copy of these proposed amendments is also available

on the Worldwide Web (<http://www.epa.gov/ttn>) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the proposed amendment will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control.

D. How Is This Document Organized?

The information in this preamble is organized as follows:

- I. General Information
 - A. Does This Action Apply to Me?
 - B. What Should I Consider as I Prepare My Comments for EPA?
 - C. Where Can I Obtain a Copy of This Document and Other Related Information?
 - D. How Is This Document Organized?
- II. Background
- III. This Action
- IV. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism

- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer Advancement Act
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

II. Background

Quality assurance is an important part of evaluating the validity of compliance test data. One way of checking the quality of the data obtained during compliance tests is to use audit samples. Audit samples are samples whose true value is known to the supplier but not to the user and are analyzed alongside the samples collected in the field during the compliance test to evaluate the quality of the data. In the past, there were no private entities who supplied stationary source audit samples, so EPA provided them free of charge to regulatory agencies. Over the past few years with the emergence of field sampling and laboratory accreditation programs, there has been an increasing need for such samples and a number of private providers have emerged. EPA believes it is no longer necessary for it to supply audit samples and, therefore, has decided to restructure the audit program to allow private accredited suppliers to provide audit samples to industries for use in compliance testing at stationary source facilities.

III. This Action

This action proposes to revise the General Provisions of Parts 51, 60, 61, and 63 to allow accredited audit sample providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as is the current practice. It also revises test methods 51, 6, 6A–C, 7, 7A–D, 8, 15A, 16A, 18, 23, 25, 25C, 25D, 26, 26A, 104, 106, 108, 108A–C, 204A–F, 306, 306A, and 308 to delete any language pertaining to audit samples. By adding language to the General Provisions of Parts 51, 60, 61 and 63, the requirement to obtain and use audits for stationary source compliance test using EPA stationary source test methods is expanded and clarified. The current General Provisions and EPA test methods are not consistent in their language concerning the use or availability of audit samples. This

action will potentially increase the number of test methods required to use audit samples and will clarify how the samples are to be obtained and used. By clarifying the requirement for audit samples and expanding their availability through multiple providers, EPA believes more audits will be used during compliance tests and the overall quality of the data used for determining compliance will improve.

This action proposes minimum requirements for the audit samples, the accredited audit sample providers (AASP), and the audit sample provider accreditor (ASPA). The AASP is the company that prepares and distributes the audit samples and the ASPA is a third-party organization that will accredit and monitor the performance of the AASPs. Both the AASP and the ASPA must work with a voluntary consensus standard body using the consensus process to develop criteria documents that describe how they will function. The Federal Office of Management and Budget Circular A–119 defines a voluntary consensus standards body (VCSB) as one having the following attributes: (i) Openness; (ii) balance of interest; (iii) due process; (iv) an appeals process; and (v) consensus, which is general agreement, but not necessarily unanimity, and includes a process for attempting to resolve objections by interested parties. As long as all comments have been fairly considered, each objector is advised of the disposition of his or her objection(s) and the reason(s) why, and the consensus body members are given an opportunity to change their votes after reviewing the comments.

AASPs must be accredited by an ASPA according to a technical criteria document developed by a VCSB. There may be many AASPs and more than one ASPA and VCSB. We predict that initially there will only be one VCSB. An example of an acceptable accredited proficiency test sample provider (APTSP) technical criteria document is Volume 3, “General Requirements for Environmental Proficiency Test Providers” adopted December 22, 2007, (incorporated by reference—see § 60.17). This document specifies the requirements for providers who supply proficiency test (PT) samples for accrediting laboratories to perform analysis of water and solid waste samples and is an example of the type of technical criteria document that would be needed for providers of stationary source audits.

This action proposes language that outlines the responsibilities of the regulated source owner or operator to acquire and use an audit sample for all

testing conducted to determine compliance with an air emission limit. The requirement would apply only if there is a commercially available audit for the test method used during the compliance testing. The source owner, operator or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the appropriate compliance authority.

This action proposes if there are no audit samples available from the AASPs, PT samples supplied by an accredited proficiency test sample provider (APTSP) may be used as an alternative provided that they are distributed as blind audit samples.

From a scientific standpoint, PT samples and audit samples are identical. Physically and chemically, the samples are the same. However, the purpose of the samples is slightly different. The PT samples are designed to establish the proficiency of a laboratory for performing a specific method or procedure as in a lab accreditation program. The PT samples are typically analyzed on a recurring schedule at some specified time interval that is not connected to any particular event. They are only designed to demonstrate that the laboratory has the capability to properly analyze a particular kind of sample by a particular method. Audit samples by contrast are event driven. They are designed to demonstrate that during a particular test event, the tester produced acceptable results for the method or procedure that was used during that test event. They are not analyzed on a regular schedule, but they are analyzed only during the particular event (a compliance test for example) that is being “audited”. They must be analyzed by the same analyst, using the same equipment and materials that are used to analyze the samples for which the audit is being conducted.

In addition to allowing private AASPs to provide audit samples for the stationary source audit program, this action shifts the burden of obtaining an audit sample from the compliance authority to the source. In the past, the EPA provided the samples to the compliance authorities at no cost, but this action proposes to require the source to purchase the samples from an accredited provider. The samples will vary in cost depending on the type of audit sample required; however, the cost will be a very small portion of the cost of a compliance test (approximately one percent). Based on historical data, EPA estimates that the total cost to industry to purchase audit samples will be between \$100,00 to \$150,000 per year at the current usage rate.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under the EO.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2355.01.

A regulated emission source conducting a compliance test would purchase an audit sample from an AASP. The AASP would report the true value of the audit sample to the compliance authority (State, local or EPA Regional Office). This is a new reporting requirement. The AASP would in most cases make the report by electronic mail. A report would be made for each audit sample that the AASP sold to a regulated emission source that was conducting an emissions test to determine compliance with an emission limit.

Based on historic data, EPA estimates that there will be about 1000 audit samples sold each year generating the need for about 1000 reports which corresponds to 80 hours burden or 0.08 hour per response for reporting and recordkeeping. The estimated cost burden is \$5.05 per response or an annual burden of \$5,050. 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; 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.

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 40 CFR are listed in 40 CFR part 9.

To comment on the Agency’s need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this rule, which include this ICR, under Docket ID number EPA–HQ–OAR–2008–0531. Submit any comments related to the ICR for this proposed rule to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, *Attention: Desk Office for EPA*. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after June 16, 2009, a comment to OMB is best assured of having its full effect if OMB receives it by July 16, 2009. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We do not anticipate that the proposed restructuring of the audit program will

result in a significant economic impact on small entities.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The incremental costs associated with purchasing the audit samples (expected to be less than \$1,000 per test) do not impose a significant burden on sources. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule actually removes the responsibility of acquiring the audit samples from the government agencies to the regulated facility.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed amendments would add language to the general provisions to allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as is the current practice. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000) The proposed amendments would

add language to the general provisions to allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as is the current practice. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law No. 104–113 (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking involves technical standards. EPA proposes to incorporate by reference two consensus standards from The NELAC Institute (TNI). The first standard is TNI Standard Volume 3 entitled General Requirements for Environmental Proficiency Providers which was adopted by TNI on December 22, 2007. The second standard is TNI Standard Volume 4 entitled General Standard for an Accreditor of Environmental Proficiency Test Providers. The two documents can be obtained by

downloading them from the TNI Web site (<http://www.nelac-institute.org>).

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable VCS and explain why such standards should be used in this regulation.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The proposed amendments would add language to the general provisions to allow accredited providers to supply stationary source audit samples and to require sources to obtain and use these samples from the accredited providers instead of from EPA, as is the current practice.

List of Subjects

40 CFR Part 51

Administrative practice and procedure, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur compounds, Volatile organic compounds.

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, continuous emission monitors, Incorporation by reference.

40 CFR Part 61

Environmental protection, Air pollution control, Incorporation by reference.

40 CFR Part 63

Environmental protection, Administrative practice and Procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: June 5, 2009.

Lisa P. Jackson,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

2. Amend Appendix M to part 51 as follows:

a. Designate the three introductory paragraphs as 1.0 through 3.0.

b. Add new introductory paragraph 4.0.

c. In Method 204A by removing Sections 7.2, 7.2.1, 7.2.2, and 7.2.3.

d. In Method 204B by removing Sections 6.2, 6.2.1, 6.2.2, and 6.2.3.

e. In Method 204C by removing Sections 6.2, 6.2.1, 6.2.2, and 6.2.3.

f. In Method 204D by removing Sections 6.2, 6.2.1, 6.2.2, and 6.2.3.

g. In Method 204E by removing Sections 6.2, 6.2.1, 6.2.2, and 6.2.3.

h. In Method 204F by removing Sections 6.3, 6.3.1, 6.3.2, 6.3.3.

Appendix M To Part 51—Recommended Test Methods for State Implementation Plans

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4.0 *Quality Assurance Procedures.* The performance test shall include an external QA program which shall include, at a minimum, a test method performance audit (PA) during the performance test. The PAs consist of blind audit samples supplied by an accredited audit sample provider and analyzed during the performance test in order to provide a measure of test data bias. The audit sample must be analyzed by the same analyst using the same analytical reagents and analytical system as the compliance samples. Retests are required when there is a failure to produce acceptable results for an audit sample. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the compliance authority may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. The compliance authority may also use the audit sample failure and the compliance test results as evidence to

determine the compliance or noncompliance status of the affected facility. A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after they report the measured value of the audit sample. For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that can be introduced into the sampling system of the test method at the same entry point as a sample from the emission source. If no gas phase audit samples are available, an acceptable alternative is a sample of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. For samples that exist only in a liquid or solid form at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. An accredited audit sample provider (AASP) is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body. If there are no audit samples available from an accredited audit sample provider, proficiency test (PT) samples supplied by an accredited PT sample provider (APTSP) may be used as an alternative provided that they are distributed as blind audit samples as defined in this paragraph. A proficiency test sample is a sample whose composition is unknown to the laboratory and is provided to test whether the laboratory can produce results within the specified acceptance range. The external QA program may also include systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

a. The source owner, operator, or representative of the tested facility shall obtain an audit sample, if available, from an AASP or APTSP for each test method used for regulatory compliance purposes. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, www.epa.gov/ttn/emc, to confirm whether there is a source that can supply an audit sample for that method. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test. When ordering an audit sample, the source owner, operator, or representative shall give the sample provider an estimate for the concentration of each pollutant that is emitted by the source and the name, address, and phone number of the compliance authority. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the

audited pollutant to the compliance authority and shall report the results of the audit sample to the AASP or the APTSP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the compliance authority first and report to the AASP or APTSP. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the compliance authority is present at the testing site. The source owner, operator, or representative may report the results of the audit sample to the compliance authority and then report the results of the audit sample to the AASP or the APTSP prior to collecting any emission samples. The test protocol and final test report shall document whether an audit sample was ordered and utilized and the pass/fail results as applicable.

b. An AASP or APTSP shall have and shall prepare, analyze, and report the true value of audit samples in accordance with a written technical criteria document that describes how audit samples or PT samples will be prepared and distributed in a manner that will insure the integrity of the audit sample program. One acceptable APTSP technical criteria document is Volume 3, "General Requirements for Environmental Proficiency Test Providers" (incorporated by reference—see § 60.17). An acceptable technical criteria document shall contain standard operating procedures for all of the following operations:

1. Preparing the sample;
2. Confirming the true concentration of the sample;
3. Distributing the sample to the user in a manner that guarantees that the true value of the sample is unknown to the user;
4. Recording the measured concentration reported by the user and determining if the measured value is within acceptable limits;
5. The AASP or APTSP shall report the results from each audit sample to the compliance authority and to the source owner, operator, or representative. The AASP or APTSP shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the source owner, operator, or representative. The results shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

6. Evaluating the acceptance limits of samples at least once every two years to determine in consultation with the voluntary consensus standard body if they should be changed;

7. Maintaining a database, accessible to the compliance authorities, of results from the audit that shall include the name of the facility tested, the date on which the

compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

c. The accrediting body shall have a written technical criteria document that describes how it will insure that the AASP or APTSP is operating in accordance with the AASP or APTSP technical criteria document that describes how audit or PT samples are to be prepared and distributed. This document shall contain standard operating procedures for all of the following operations:

1. Checking audit samples to confirm their true value as reported by the AASP;
2. Performing technical systems audits of the AASP's facilities and operating procedures at least once every two years.
3. Providing standards for use by the voluntary consensus standard body to approve the accrediting body that will accredit the audit sample providers.

d. The technical criteria documents for the accredited sample providers and the accrediting body shall be developed through a public process guided by a voluntary consensus standards body (VCSB). The VCSB shall operate in accordance with the procedures and requirements in the Office of Management and Budget *Circular A-119*. The VCSB shall approve all accrediting bodies. The Administrator will review all technical criteria documents. If the technical criteria documents do not meet the minimum technical requirements in this Appendix M, paragraph b. through d. of this paragraph 4.0, the technical criteria documents are not acceptable and the proposed audit sample program is not capable of producing audit samples of sufficient quality to be used in a compliance test. All acceptable technical criteria documents are incorporated by reference in 40 CFR 60.17.

* * * * *

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

3. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7410, 7414, 7421, 7470–7479, 7491, 7492, 7601 and 7602.

4. Section 60.8 is amended by adding paragraph (g) to read as follows:

§ 60.8 Performance tests.

* * * * *

(g) The performance test shall include an external QA program which shall include, at a minimum, a test method performance audit (PA) during the performance test. The PAs consist of blind audit samples supplied by an accredited audit sample provider and analyzed during the performance test in order to provide a measure of test data bias. The audit sample must be analyzed

by the same analyst using the same analytical reagents and analytical system as the compliance samples. Retests are required when there is a failure to produce acceptable results for an audit sample. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the compliance authority may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. The compliance authority may also use the audit sample failure and the compliance test results as evidence to determine the compliance or noncompliance status of the affected facility. A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after they report the measured value of the audit sample. For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that can be introduced into the sampling system of the test method at the same entry point as a sample from the emission source. If no gas phase audit samples are available, an acceptable alternative is a sample of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. For samples that exist only in a liquid or solid form at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. An accredited audit sample provider (AASP) is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body. If there are no audit samples available from an accredited audit sample provider, proficiency test (PT) samples supplied by an accredited PT sample provider (APTSP) may be used as an alternative provided that they are distributed as blind audit samples as defined in this paragraph. A PT sample is a sample whose composition is unknown to the laboratory and is provided to test whether the laboratory can produce results within the specified acceptance range. The external QA program may also include systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(1) The source owner, operator, or representative of the tested facility shall obtain an audit sample, if available, from an AASP or APTSP for each test method used for regulatory compliance purposes. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, www.epa.gov/ttn/emc, to confirm whether there is a source that can supply an audit sample for that method. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test. When ordering an audit sample, the source, operator, or representative shall give the sample provider an estimate for the concentration of each pollutant that is emitted by the source and the name, address, and phone number of the compliance authority. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the compliance authority and shall report the results of the audit sample to the AASP or the APTSP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the AASP or APTSP. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the compliance authority is present at the testing site. The source owner, operator, or representative may report the results of the audit sample to the compliance authority and report the results of the audit sample to the AASP or the APTSP prior to collecting any emission samples. The test protocol and final test report shall document whether an audit sample was ordered and utilized and the pass/fail results as applicable.

(2) An AASP or APTSP shall have and shall prepare, analyze, and report the true value of audit samples in accordance with a written technical criteria document that describes how audit samples or PT samples will be prepared and distributed in a manner that will insure the integrity of the audit sample program. One acceptable APTSP technical criteria document is Volume

3, "General Requirements for Environmental Proficiency Test Providers" (incorporated by reference—see § 60.17.) An acceptable technical criteria document shall contain standard operating procedures for all of the following operations:

(i) Preparing the sample;

(ii) Confirming the true concentration of the sample;

(iii) Distributing the sample to the user in a manner that guarantees that the true value of the sample is unknown to the user;

(iv) Recording the measured concentration reported by the user and determining if the measured value is within acceptable limits;

(v) The AASP or APTSP shall report the results from each audit sample to the compliance authority and then to the source owner, operator, or representative. The AASP or APTSP shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the source owner, operator, or representative. The results shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

(vi) Evaluating the acceptance limits of samples at least once every two years to determine in cooperation with the voluntary consensus standard body if they should be changed;

(vii) Maintaining a database, accessible to the compliance authorities, of results from the audit that shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

(3) The accrediting body shall have a written technical criteria document that describes how it will insure that the AASP or APTSP is operating in accordance with the AASP or APTSP technical criteria document that describes how audit or PT samples are to be prepared and distributed. This document shall contain standard

operating procedures for all of the following operations:

(i) Checking audit samples to confirm their true value as reported by the AASP;

(ii) Performing technical systems audits of the AASP's facilities and operating procedures at least once every two years;

(iii) Providing standards for use by the voluntary consensus standard body to approve the accrediting body that will accredit the audit sample providers.

(4) The technical criteria documents for the accredited sample providers and the accrediting body shall be developed through a public process guided by a voluntary consensus standards body (VCSB). The VCSB shall operate in accordance with the procedures and requirements in the Office of Management and Budget *Circular A-119*. The VCSB shall approve all accrediting bodies. The Administrator will review all technical criteria documents. If the technical criteria documents do not meet the minimum technical requirements in paragraphs (g)(2) through (4) of this section, the technical criteria documents are not acceptable and the proposed audit sample program is not capable of producing audit samples of sufficient quality to be used in a compliance test. All acceptable technical criteria

documents are incorporated by reference in 40 CFR 60.17.

5. In Appendix A-3 to part 60 amend Method 5I by revising Section 7.2 to read as follows:

Appendix A-3 to Part 60—Test Methods 4 through 5I

* * * * *

Method 5I—Determination of Low Level Particulate Matter Emissions from Stationary Sources

* * * * *

7.2 Standards. There are no applicable standards commercially available for Method 5I analyses.

* * * * *

6. Amend Appendix A-4 to part 60 as follows:

- a. In Method 6 as follows:
 - i. Remove Section 7.3.6.
 - ii. Revise Section 9.0.
 - iii. Remove Sections 11.3, 11.3.1 through 11.3.3, 11.4, 11.4.1 through 11.4.4, and 12.4.
 - iv. Revise Section 12.1.
- b. In Method 6A as follows:
 - i. Remove Section 11.2
 - ii. Revise Section 16.5.
- c. In Method 6B by removing Section 11.2.
- d. In Method 6C by revising Section 16.1.
- e. In Method 7 as follows:
 - i. Remove Section 7.3.10.
 - ii. Revise Section 9.0.

- iii. Remove Sections 11.4, 11.4.1 through 11.4.3, 11.5, 11.5.1 through 11.5.4, and 12.6.
- iv. Revise Section 12.1.
- f. In Method 7A as follows:
 - i. Revise Section 6.3.
 - ii. Remove Section 7.3.5.
 - iii. Revise Section 9.0.
 - iv. Remove Section 11.3.
- g. In Method 7B as follows:
 - i. Revise Section 9.0.
 - ii. Remove Section 11.4.
- h. In Method 7C as follows:
 - i. Remove Section 7.2.15.
 - ii. Revise Section 9.0.
 - iii. Remove Section 11.6.
- i. In Method 7D as follows:
 - i. Remove Sections 7.2.6 and 11.3.
 - ii. Revise Section 9.0.
- j. In Method 8 as follows:
 - i. Remove Section 7.3.1.
 - ii. Revise Section 9.1.
 - iii. Remove Sections 11.3, 11.3.1, 11.3.2, 11.3.3, 11.4, 11.4.1, 11.4.2, 11.4.3, 11.4.4, and 12.9.
 - iv. Revise Section 12.1.

Appendix A-4 to Part 60—Test Methods 6 through 10B

* * * * *

Method 6—Determination of Sulfur Dioxide Emissions from Stationary Sources

* * * * *

9.0 *Quality Control.*

Section	Quality control measure	Effect
7.1.2	Isopropanol check	Ensure acceptable level of peroxide impurities in isopropanol.
8.2, 10.1-10.4 ..	Sampling equipment leak-check and calibration ..	Ensure accurate measurement of stack gas flow rate, sample volume.
10.5	Barium standard solution standardization	Ensure precision of normality determination.
11.2.3	Replicate titrations	Ensure precision of titration determinations.

* * * * *
12.1 *Nomenclature.*

- C_{SO_2} = Concentration of SO₂, dry basis, corrected to standard conditions, mg/dscm (lb/dscf).
- N = Normality of barium standard titrant, meq/ml.
- P_{bar} = Barometric pressure, mm Hg (in. Hg).
- P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
- T_m = Average DGM absolute temperature, °K (°R).
- T_{std} = Standard absolute temperature, 293 °K (528 °R).
- V_a = Volume of sample aliquot titrated, ml.
- V_m = Dry gas volume as measured by the DGM, dcm (dcf).
- $V_{m(std)}$ = Dry gas volume measured by the DGM, corrected to standard conditions, dscm (dscf).
- V_{soln} = Total volume of solution in which the SO₂ sample is contained, 100 ml.
- V_t = Volume of barium standard titrant used for the sample (average of replicate titration), ml.
- V_{tb} = Volume of barium standard titrant used for the blank, ml.

Y = DGM calibration factor.

* * * * *

Method 6A—Determination of Sulfur Dioxide, Moisture and Carbon Dioxide Emissions from Fossil Fuel Combustion Sources

* * * * *

16.5 *Sample Analysis.* Analysis of the peroxide solution is the same as that described in Section 11.1.

* * * * *

Method 6C—Determination of Sulfur Dioxide Emissions from Stationary Sources (Instrumental Analyzer Procedure)

* * * * *

16.1 *Alternative Interference Check.* You may perform an alternative interference check consisting of at least three comparison runs between Method 6C and Method 6. This check validates the Method 6C results at each particular source category (type of facility) where the check is performed. When testing under conditions of low concentrations (<15 ppm), this alternative interference check is not allowed.

Note: The procedure described below applies to non-dilution sampling systems only. If this alternative interference check is used for a dilution sampling system, use a standard Method 6 sampling train and extract the sample directly from the exhaust stream at points collocated with the Method 6C sample probe.

(1) Build the modified Method 6 sampling train (flow control valve, two midjet impingers containing 3 percent hydrogen peroxide, and dry gas meter) shown in Figure 6C-1. Connect the sampling train to the sample bypass discharge vent. Record the dry gas meter reading before you begin sampling. Simultaneously collect modified Method 6 and Method 6C samples. Open the flow control valve in the modified Method 6 train as you begin to sample with Method 6C. Adjust the Method 6 sampling rate to 1 liter per minute (.10 percent). The sampling time per run must be the same as for Method 6 plus twice the average measurement system response time. If your modified Method 6 train does not include a pump, you risk biasing the results high if you over-pressurize the midjet impingers and cause a leak. You

can reduce this risk by cautiously increasing the flow rate as sampling begins.

(2) After completing a run, record the final dry gas meter reading, meter temperature, and barometric pressure. Recover and

analyze the contents of the midget impingers using the procedures in Method 6. Determine the average gas concentration reported by Method 6C for the run.

* * * * *

Method 7—Determination of Nitrogen Oxide Emissions from Stationary Sources

* * * * *

9.0 Quality Control.

Section	Quality control measure	Effect
10.1	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.

* * * * *

12.1 Nomenclature.

A = Absorbance of sample.
 A₁ = Absorbance of the 100-µg NO₂ standard.
 A₂ = Absorbance of the 200-µg NO₂ standard.
 A₃ = Absorbance of the 300-µg NO₂ standard.
 A₄ = Absorbance of the 400-µg NO₂ standard.
 C = Concentration of NO_x as NO₂, dry basis, corrected to standard conditions, mg/dsm³ (lb/dscf).
 F = Dilution factor (i.e., 25/5, 25/10, etc., required only if sample dilution was needed to reduce the absorbance into the range of the calibration).
 K_c = Spectrophotometer calibration factor.

m = Mass of NO_x as NO₂ in gas sample, µg.
 P_f = Final absolute pressure of flask, mm Hg (in. Hg).
 P_i = Initial absolute pressure of flask, mm Hg (in. Hg).
 P_{std} = Standard absolute pressure, 760 mm Hg (29.92 in. Hg).
 T_f = Final absolute temperature of flask, °K (°R).
 T_i = Initial absolute temperature of flask, °K (°R).
 T_{std} = Standard absolute temperature, 293 °K (528 °R).
 V_{sc} = Sample volume at standard conditions (dry basis), ml.
 V_f = Volume of flask and valve, ml.

V_a = Volume of absorbing solution, 25 ml.
 * * * * *

Method 7A—Determination of Nitrogen Oxide Emissions from Stationary Sources (Ion Chromatographic Method)

* * * * *

6.3 Analysis. For the analysis, the following equipment and supplies are required. Alternative instrumentation and procedures will be allowed provided the calibration precision requirement in Section 10.1.2 can be met.

* * * * *

9.0 Quality Control.

Section	Quality control measure	Effect
10.1	Ion chromatograph calibration	Ensure linearity of ion chromatograph response to standards.

* * * * *

Method 7B—Determination of Nitrogen Oxide Emissions from Stationary Sources (Ultraviolet Spectrophotometric Method)

* * * * *

9.0 Quality Control.

Section	Quality control measure	Effect
10.1	Spectrophotometer calibration	Ensures linearity of spectrophotometer response to standards.

* * * * *

Method 7C—Determination of Nitrogen Oxide Emissions from Stationary Sources (Alkaline Permanganate/Colorimetric Method)

* * * * *

9.0 Quality Control.

Section	Quality control measure	Effect
8.2, 10.1–10.3 ..	Sampling equipment leak-check and calibration ..	Ensure accurate measurement of sample volume.
10.4	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.
11.3	Spiked sample analysis	Ensure reduction efficiency of column.

* * * * *

Method 7D—Determination of Nitrogen Oxide Emissions from Stationary Sources—Alkaline-Permanganate/Ion Chromatographic Method

* * * * *

9.0 Quality Control.

Section	Quality control measure	Effect
8.2, 10.1–10.3 ..	Sampling equipment leak-check and calibration ..	Ensure accurate measurement of sample volume.
10.4	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.
11.3	Spiked sample analysis	Ensure reduction efficiency of column.

* * * * *

Method 8—Determination of Sulfuric Acid and Sulfur Dioxide Emissions from Stationary Sources

9.1 *Miscellaneous Quality Control Measures.*

* * * * *

Section	Quality control measure	Effect
7.1.3	Isopropanol check	Ensure acceptable level of peroxide impurities in isopropanol.
8.4, 8.5, 10.1 ...	Sampling equipment leak-check and calibration ..	Ensure accurate measurement of stack gas flow rate, sample volume.
10.2	Barium standard solution standardization	Ensure normality determination.
11.2	Replicate titrations	Ensure precision of titration determinations.

* * * * *

12.1 *Nomenclature.* Same as Method 5, Section 12.1, with the following additions and exceptions:

- C_{H₂SO₄} = Sulfuric acid (including SO₃) concentration, g/dscm (lb/dscf).
- C_{SO₂} = Sulfur dioxide concentration, g/dscm (lb/dscf).
- N = Normality of barium perchlorate titrant, meq/ml.
- V_a = Volume of sample aliquot titrated, 100 ml for H₂SO₄ and 10 ml for SO₂.

V_{soln} = Total volume of solution in which the sample is contained, 250 ml for the SO₂ sample and 1000 ml for the H₂SO₄ sample.

V_t = Volume of barium standard solution titrant used for the sample, ml.

V_{tb} = Volume of barium standard solution titrant used for the blank, ml.

* * * * *

7. In Appendix A-5 to part 60 amend Method 15A as follows:

- a. Revise Section 9.0.
- b. Remove Section 11.2.

Appendix A-5 to Part 60—Test Methods 11 through 15A

* * * * *

Method 15A—Determination of Total Reduced Sulfur Emissions from Sulfur Recovery Plants in Petroleum Refineries

* * * * *

9.0 *Quality Control.*

Section	Quality control measure	Effect
8.5	System performance check	Ensures validity of sampling train components and analytical procedure.
8.2, 10.0	Sampling equipment leak-check and calibration ..	Ensures accurate measurement of stack gas flow rate, sample volume.
10.0	Barium standard solution standardization	Ensures precision of normality determination.
11.1	Replicate titrations	Ensures precision of titration determinations.

* * * * *

8. Amend Appendix A-6 to part 60 as follows:

- a. Amend Method 16A as follows:
 - i. Revise Section 9.0.
 - ii. Remove Section 11.2.
- b. Amend Method 18 as follows:
 - i. Remove Sections 7.2, 8.2.1.5.2.2, and 8.2.1.7.

- ii. Revise Section 8.2.2.2.
- iii. Remove Sections 8.2.2.4, and 8.2.3.2.3.
- iv. Revise Section 8.2.4.2.2.
- v. Remove Sections 9.2, and 13.1(b).
- vi. Designate the “Gaseous Organic Sampling and Analysis Checklist” as figure 18-15, and revise newly designated figure 18-15.

Appendix A-6 to Part 60—Test Methods 16 through 18

* * * * *

Method 16A—Determination of Total Reduced Sulfur Emissions from Stationary Sources (Impinger Technique)

* * * * *

9.0 *Quality Control.*

Section	Quality control measure	Effect
8.5	System performance check	Ensure validity of sampling train components and analytical procedure.
8.2, 10.0	Sampling equipment leak-check and calibration ..	Ensure accurate measurement of stack gas flow rate, sample volume.
10.0	Barium standard solution standardization	Ensure precision of normality determination.
11.1	Replicate titrations	Ensure precision of titration determinations.

* * * * *

Method 18—Measurement of Gaseous Organic Compound Emissions by Gas Chromatography

* * * * *

8.2.2.2 *Procedure.* Calibrate the GC using the procedures in Section 8.2.1.5.2.1. To obtain a stack gas sample, assemble the sampling system as shown in Figure 18-12. Make sure all connections are tight. Turn on the probe and sample line heaters. As the temperature of the probe and heated line approaches the target temperature as indicated on the thermocouple readout device, control the heating to maintain a temperature greater than 110 °C. Conduct a 3-point calibration of the GC by analyzing each gas mixture in triplicate. Generate a calibration curve. Place the inlet of the probe

at the centroid of the duct, or at a point no closer to the walls than 1 m, and draw source gas into the probe, heated line, and sample loop. After thorough flushing, analyze the stack gas sample using the same conditions as for the calibration gas mixture. For each run, sample, analyze, and record five consecutive samples. A test consists of three runs (five samples per run times three runs, for a total of fifteen samples). After all samples have been analyzed, repeat the analysis of the mid-level calibration gas for each compound. For each calibration standard, compare the pre- and post-test average response factors (RF) for each compound. If the two calibration RF values (pre- and post-analysis) differ by more than 5 percent from their mean value, then analyze the other calibration gas levels for that compound and determine the stack gas

sample concentrations by comparison to both calibration curves (this is done by preparing a calibration curve using all the pre- and post-test calibration gas mixture values). If the two calibration RF values differ by less than 5 percent from their mean value, the tester has the option of using only the pre-test calibration curve to generate the concentration values. Record this calibration data and the other required data on the data sheet shown in Figure 18-11, deleting the dilution gas information.

Note: Take care to draw all samples and calibration mixtures through the sample loop at the same pressure.

* * * * *

8.2.4.2.2 Use a sample probe, if required, to obtain the sample at the centroid of the duct or at a point no closer to the walls than

1 m. Minimize the length of flexible tubing between the probe and adsorption tubes. Several adsorption tubes can be connected in series, if the extra adsorptive capacity is needed. Adsorption tubes should be maintained vertically during the test in order to prevent channeling. Provide the gas sample to the sample system at a pressure sufficient for the limiting orifice to function as a sonic orifice. Record the total time and sample flow rate (or the number of pump

strokes), the barometric pressure, and ambient temperature. Obtain a total sample volume commensurate with the expected concentration(s) of the volatile organic(s) present and recommended sample loading factors (weight sample per weight adsorption media). Laboratory tests prior to actual sampling may be necessary to predetermine this volume. If water vapor is present in the sample at concentrations above 2 to 3 percent, the adsorptive capacity may be

severely reduced. Operate the gas chromatograph according to the manufacturer's instructions. After establishing optimum conditions, verify and document these conditions during all operations. Calibrate the instrument and then analyze the emission samples.

* * * * *
BILLING CODE 6560-50-P

Gaseous Organic Sampling and Analysis Check List
(Respond with initials or number as appropriate)

1. Pre-survey data	Date
A. Grab sample collected	<input type="checkbox"/> _____
B. Grab sample analyzed for composition	<input type="checkbox"/> _____
Method GC	<input type="checkbox"/>
GC/MS	<input type="checkbox"/>
Other _____	<input type="checkbox"/>
C. GC-FID analysis performed	<input type="checkbox"/> _____
2. Laboratory calibration curves prepared	<input type="checkbox"/> _____
A. Number of components	<input type="checkbox"/>
B. Number of concentrations per component (3 required)	<input type="checkbox"/>
C. OK obtained for field work	<input type="checkbox"/>
3. Sampling procedures	
A. Method	
Bag sample	<input type="checkbox"/>
Direct interface	<input type="checkbox"/>
Dilution interface	<input type="checkbox"/>
B. Number of samples collected	<input type="checkbox"/> _____
4. Field Analysis	
A. Total hydrocarbon analysis performed	<input type="checkbox"/> _____
B. Calibration curve prepared	<input type="checkbox"/> _____
Number of components	<input type="checkbox"/>
Number of concentrations per component (3 required)	<input type="checkbox"/>

* * * * *

9. Amend Appendix A-7 to part 60 as follows:

a. Amend Method 23 by removing Sections 8, 8.1, 8.2, 8.3, and 8.4.

b. Amend Method 25 as follows:

i. Remove Sections 7.5, 7.5.1, and 7.5.2.

ii. Revise Section 9.0.

iii. Remove Sections 11.3, 11.3.1, 11.3.2, 11.3.3, 11.4, 11.4.1, 11.4.2, 11.4.3, and 11.4.4.

c. Amend Method 25C as follows:

i. Remove Sections 7.3, 7.3.1, and 7.3.2.

ii. Revise Section 9.1.

iii. Remove Sections 11.2, 11.2.1, 11.2.2, 11.3, 11.3.1, 11.3.2, 11.3.3, and 11.3.4.

d. Amend Method 25D by removing Sections 7.3, 7.3.1, 7.3.2, 11.3, 11.3.1, 11.3.2, 11.3.3, 11.4, 11.4.1, and 11.4.2.

Appendix A-7 to Part 60—Test Methods 19 through 25E

* * * * *

Method 25—Determination of Total Gaseous Nonmethane Organic Emissions as Carbon

* * * * *

9.0 *Quality Control.*

Section	Quality control measure	Effect
10.1.1	Initial performance check of condensate recovery apparatus.	Ensure acceptable condensate recovery efficiency.
10.1.2, 10.2	NMO analyzer initial and daily performance checks.	Ensure precision of analytical results.

* * * * *

Method 25C—Determination of Nonmethane Organic Compounds (NMOC) in Landfill Gases

* * * * *

9.1 *Miscellaneous Quality Control Measures.*

Section	Quality control measure	Effect
8.4.1	Verify that landfill gas sample contains less than 20 percent N ₂ or 5 percent O ₂ .	Ensures that ambient air was not drawn into the landfill gas sample.
10.1, 10.2	NMOC analyzer initial and daily performance checks.	Ensures precision of analytical results.

* * * * *

10. Amend Appendix A-8 to part 60 as follows:

a. Amend Method 26 as follows:

i. Remove Section 7.3.

ii. Revise Section 9.0.

iii. Remove Sections 11.2, 11.2.1, 11.2.2, 11.2.3, 11.3, 11.3.1, 11.3.2, 11.3.3, and 11.3.4.

b. Amend Method 26A as follows:

i. Remove Section 7.3.

ii. Revise the first Section 9.1.

iii. Redesignate the second Section 9.1 as 9.2.

iv. Remove Sections 11.4, 11.4.1, 11.4.2, 11.4.3, 11.5, 11.5.1, 11.5.2, 11.5.3, and 11.5.4.

Appendix A-8 to Part 60—Test Methods 26 through 29

* * * * *

Method 26—Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources Non-Isokinetic Method

* * * * *

9.0 *Quality Control. [Reserved.]*

* * * * *

Method 26A—Determination of Hydrogen Halide and Halogen Emissions from Stationary Sources Isokinetic Method

* * * * *

9.1 *Miscellaneous Quality Control Measures.*

Section	Quality control measure	Effect
8.1.4, 10.1	Sampling equipment leak-check and calibration ..	Ensure accurate measurement of stack gas flow rate, sample volume.

* * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

11. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7413, 7414, 7416, 7601, and 7602.

12. Section 61.13 is amended by adding paragraph (e)(1) and adding and reserving paragraph (e)(2) to read as follows:

§ 61.13 Emission tests and waiver of emission tests.

* * * * *

(e) * * *

(1) The emissions test shall include an external QA program which shall include, at a minimum, a test method performance audit (PA) during the emissions test. The PAs consist of blind audit samples supplied by an accredited audit sample provider and analyzed during the emissions test in order to provide a measure of test data bias. The audit sample must be analyzed by the same analyst using the same analytical reagents and analytical system as the compliance samples. Retests are required when there is a failure to produce acceptable results for an audit sample. However, if the audit results do

not affect the compliance or noncompliance status of the affected facility, the compliance authority may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. The compliance authority may also use the audit sample failure and the compliance test results as evidence to determine the compliance or noncompliance status of the affected facility. A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after they report the measured value of the audit sample. For pollutants that exist in the gas phase at ambient

temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that can be introduced into the sampling system of the test method at the same entry point as a sample from the emission source. If no gas phase audit samples are available, an acceptable alternative is a sample of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. For samples that exist only in a liquid or solid form at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. An accredited audit sample provider (AASP) is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body. If there are no audit samples available from an accredited audit sample provider, proficiency test (PT) samples supplied by an accredited PT sample provider (APTSP) may be used as an alternative provided that they are distributed as blind audit samples as defined in this paragraph. A PT sample is a sample whose composition is unknown to the laboratory and is provided to test whether the laboratory can produce results within the specified acceptance range. The external QA program may also include systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(i) The source owner, operator, or representative of the tested facility shall obtain an audit sample, if available, from an AASP or APTSP for each test method used for regulatory compliance purposes. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, www.epa.gov/ttn/emc, to confirm whether there is a source that can supply an audit sample for that method. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test. When ordering an audit sample the source owner, operator, or representative shall give the sample provider an estimate for the

concentration of each pollutant that is emitted by the source and the name, address, and phone number of the compliance authority. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the compliance authority and shall report the results of the audit sample to the AASP or the APTSP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the AASP or APTSP. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the compliance authority is present at the testing site. The source owner, operator, or representative may report the results of the audit sample to the compliance authority and then report the results of the audit sample to the AASP or the APTSP prior to collecting any emission samples. The test protocol and final test report shall document whether an audit sample was ordered and utilized and the pass/fail results as applicable.

(ii) An AASP or APTSP shall have and shall prepare, analyze, and report the true value of audit samples in accordance with a written technical criteria document that describes how audit samples or PT samples will be prepared and distributed in a manner that will insure the integrity of the audit sample program. One acceptable APTSP technical criteria document is Volume 3, "General Requirements for Environmental Proficiency Test Providers" (incorporated by reference—see § 60.17. An acceptable technical criteria document shall contain standard operating procedures for all of the following operations:

- (A) Preparing the sample;
- (B) Confirming the true concentration of the sample;
- (C) Distributing the sample to the user in a manner that guarantees that the true value of the sample is unknown to the user;
- (D) Recording the measured concentration reported by the user and determining if the measured value is within acceptable limits;

(E) The AASP or APTSP shall report the results from each audit sample to the compliance authority and then to the source owner, operator, or representative. The AASP or APTSP shall make both reports at the same time and in the same manner or shall report

to the compliance authority first and then report to the source owner, operator, or representative. The results shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit;

(F) Evaluating the acceptance limits of samples at least once every two years to determine in consultation with the voluntary consensus standard body if they should be changed;

(G) Maintaining a database, accessible to the compliance authorities, of results from the audit that shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

(iii) The accrediting body shall have a written technical criteria document that describes how it will insure that the AASP or APTSP is operating in accordance with the AASP or APTSP technical criteria document that describes how audit or PT samples are to be prepared and distributed. This document shall contain standard operating procedures for all of the following operations:

(A) Checking audit samples to confirm their true value as reported by the AASP.

(B) Performing technical systems audits of the AASP's facilities and operating procedures at least once every two years.

(C) Providing standards for use by the voluntary consensus standard body to approve the accrediting body that will accredit the audit sample providers.

(iv) The technical criteria documents for the accredited sample providers and the accrediting body shall be developed through a public process guided by a voluntary consensus standards body (VCSB). The VCSB shall operate in accordance with the procedures and requirements in the Office of Management and Budget *Circular A-119*. The VCSB shall approve all accrediting bodies. The Administrator will review all technical criteria documents. If the technical criteria

documents do not meet the minimum technical requirements in paragraphs (e)(1)(ii) through (iv) of this section, the technical criteria documents are not acceptable and the proposed audit sample program is not capable of producing audit samples of sufficient quality to be used in a compliance test. All acceptable technical criteria documents are incorporated by reference in 40 CFR 60.17.

(2) [Reserved]

* * * * *

Appendix B—[Amended]

13. Amend Appendix B to part 61 as follows:

- a. In Method 104 revise Section 9.0.
- b. In Method 106 as follows:

- i. Remove Sections 7.2.4, 7.2.4.1, and 7.2.4.2.
- ii. Revise Section 9.0.
- iii. Remove Sections 9.1, 9.2, and 11.1.
- c. In Method 108 as follows:
 - i. Remove Section 7.3.16.
 - ii. Revise Section 9.1.
 - iii. Remove Sections 11.6, 11.6.1, 11.6.2, 11.6.3, 11.7, 11.7.1, 11.7.2, 11.7.3, and 11.7.4.
 - iv. Revise Section 12.1.
- d. In Method 108A as follows:
 - i. Remove Section 7.2.1.
 - ii. Revise Section 9.0.
- iii. Remove Sections 11.6, 11.6.1, 11.6.2, 11.6.3, 11.7, 11.7.1, 11.7.2, 11.7.3, and 11.7.4.
- e. In Method 108B as follows:

- i. Remove Section 7.2.5.
- ii. Revise Section 9.0.
- iii. Remove Section 11.5.
- f. In Method 108C as follows:
 - i. Remove Section 7.2.10.
 - ii. Revise Section 9.0.
 - iii. Remove Section 11.3.
- g. In Method 111 as follows:
 - i. Revise Section 9.2.
 - ii. Revise Section 11.0.
 - iii. Remove Section 11.3.

Appendix B to Part 61—Test Methods

* * * * *

Method 104—Determination of Beryllium Emissions from Stationary Sources

* * * * *
9.0 Quality Control.

Section	Quality control measure	Effect
8.4, 10.1	Sampling equipment leak checks and calibration	Ensure accuracy and precision of sampling measurements.
10.2	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.
11.5	Check for matrix effects	Eliminate matrix effects.

* * * * *

Method 106—Determination of Vinyl Chloride Emissions from Stationary Sources

* * * * *

9.0 Quality Control.

Section	Quality control measure	Effect
10.3	Chromatograph calibration	Ensure precision and accuracy of chromatograph.

* * * * *

Method 108—Determination of Particulate and Gaseous Arsenic Emissions

* * * * *

9.0 Quality Control.
9.1 Miscellaneous Quality Control Measures.

Section	Quality control measure	Effect
8.4, 10.1	Sampling equipment leak-checks and calibration	Ensures accuracy and precision of sampling measurements.
10.4	Spectrophotometer calibration	Ensures linearity of spectrophotometer response to standards.
11.5	Check for matrix effects	Eliminates matrix effects.

* * * * *

12.1 Nomenclature.

- B_{ws} = Water in the gas stream, proportion by volume.
- C_a = Concentration of arsenic as read from the standard curve, $\mu\text{g}/\text{ml}$.
- C_s = Arsenic concentration in stack gas, dry basis, converted to standard conditions, g/dsm^3 (gr/dscf).
- E_a = Arsenic mass emission rate, g/hr (lb/hr).
- F_d = Dilution factor (equals 1 if the sample has not been diluted).
- I = Percent of isokinetic sampling.
- m_{bi} = Total mass of all four impingers and contents before sampling, g .

- m_{fi} = Total mass of all four impingers and contents after sampling, g .
- m_n = Total mass of arsenic collected in a specific part of the sampling train, μg .
- m_t = Total mass of arsenic collected in the sampling train, μg .
- T_m = Absolute average dry gas meter temperature (see Figure 108–2), $^\circ\text{K}$ ($^\circ\text{R}$).
- V_m = Volume of gas sample as measured by the dry gas meter, dry basis, m^3 (ft^3).
- $V_{m(\text{std})}$ = Volume of gas sample as measured by the dry gas meter, corrected to standard conditions, m^3 (ft^3).
- V_n = Volume of solution in which the arsenic is contained, ml .

- $V_{w(\text{std})}$ = Volume of water vapor collected in the sampling train, corrected to standard conditions, m^3 (ft^3).
- ΔH = Average pressure differential across the orifice meter (see Figure 108–2), $\text{mm H}_2\text{O}$ (in. H_2O).

* * * * *

Method 108A—Determination of Arsenic Content in Ore Samples from Nonferrous Smelters

* * * * *
9.0 Quality Control.

Section	Quality control measure	Effect
10.2	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.
11.5	Check for matrix effects	Eliminate matrix effects.

* * * * *

Method 108B—Determination of Arsenic Content in Ore Samples from Nonferrous Smelters

9.0 Quality Control.

* * * * *

Section	Quality control measure	Effect
10.2	Spectrophotometer calibration	Ensure linearity of spectrophotometer response to standards.
11.4	Check for matrix effects	Eliminate matrix effects.

* * * * *

Method 108C—Determination of Arsenic Content in Ore Samples from Nonferrous Smelters (Molybdenum Blue Photometric Procedure)

9.0 Quality Control.

* * * * *

Section	Quality control measure	Effect
10.2	Calibration curve preparation	Ensure linearity of spectrophotometric response to standards.

* * * * *

Method 111—Determination of Polonium-210 Emissions from Stationary Sources

9.2 Miscellaneous Quality Control Measures.

* * * * *

Section	Quality control measure	Effect
10.1	Standardization of alpha spectrometry system	Ensure precision of sample analyses.
10.3	Standardization of internal proportional counter ...	Ensure precise sizing of sample aliquot.
11.1, 11.2	Determination of procedure background and instrument background.	Minimize background effects.

* * * * *

11.0 Analytical Procedure.

Note: Perform duplicate analyses of all samples, including background counts and Method 5 samples. Duplicate measurements are considered acceptable when the difference between them is less than two standard deviations as described in EPA 600/4-77-001 or subsequent revisions.

* * * * *

PART 63—NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

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

15. Section 63.7 is amended by revising (c)(2)(iii) to read as follows:

§ 63.7 Performance testing requirements.

* * * * *

- (c) * * *
- (2) * * *

(iii) The external QA program shall include, at a minimum, a test method performance audit (PA) during the performance test. The PAs consist of blind audit samples supplied by an accredited audit sample provider and analyzed during the performance test in order to provide a measure of test data bias. The audit sample must be analyzed by the same analyst using the same

analytical reagents and analytical system as the compliance samples. Retests are required when there is a failure to produce acceptable results for an audit sample. However, if the audit results do not affect the compliance or noncompliance status of the affected facility, the compliance authority may waive the reanalysis requirement, further audits, or retests and accept the results of the compliance test. The compliance authority may also use the audit sample failure and the compliance test results as evidence to determine the compliance or noncompliance status of the affected facility. A blind audit sample is a sample whose value is known only to the sample provider and is not revealed to the tested facility until after they report the measured value of the audit sample. For pollutants that exist in the gas phase at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in air or nitrogen that can be introduced into the sampling system of the test method at the same entry point as a sample from the emission source. If no gas phase audit samples are available, an acceptable alternative is a sample of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. For samples that exist

only in a liquid or solid form at ambient temperature, the audit sample shall consist of an appropriate concentration of the pollutant in the same matrix that would be produced when the sample is recovered from the sampling system as required by the test method. An accredited audit sample provider (AASP) is an organization that has been accredited to prepare audit samples by an independent, third party accrediting body. If there are no audit samples available from an accredited audit sample provider, proficiency test (PT) samples supplied by an accredited PT sample provider (APTSP) may be used as an alternative provided that they are distributed as blind audit samples as defined in this paragraph. A proficiency test sample is a sample whose composition is unknown to the laboratory and is provided to test whether the laboratory can produce results within the specified acceptance range. The external QA program may also include systems audits that include the opportunity for on-site evaluation by the Administrator of instrument calibration, data validation, sample logging, and documentation of quality control data and field maintenance activities.

(A) The source owner, operator, or representative of the tested facility shall obtain an audit sample, if available,

from an AASP or APTSP for each test method used for regulatory compliance purposes. If the source owner, operator, or representative cannot find an audit sample for a specific method, the owner, operator, or representative shall consult the EPA Web site at the following URL, www.epa.gov/ttn/emc, to confirm whether there is a source that can supply an audit sample for that method. If the EPA Web site does not list an available audit sample at least 60 days prior to the beginning of the compliance test, the source owner, operator, or representative shall not be required to include an audit sample as part of the quality assurance program for the compliance test. When ordering an audit sample the source owner, operator, or representative shall give the sample provider an estimate for the concentration of each pollutant that is emitted by the source and the name, address, and phone number of the compliance authority. The source owner, operator, or representative shall report the results for the audit sample along with a summary of the emission test results for the audited pollutant to the compliance authority and shall report the results of the audit sample to the AASP or the APTSP. The source owner, operator, or representative shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the AASP or APTSP. If the method being audited is a method that allows the samples to be analyzed in the field and the tester plans to analyze the samples in the field, the tester may analyze the audit samples prior to collecting the emission samples provided a representative of the compliance authority is present at the testing site. The source owner, operator, or representative may report the results of the audit sample to the compliance authority and then report the results of the audit sample to the AASP or the APTSP prior to collecting any emission samples. The test protocol and final test report shall document whether an audit sample was ordered and utilized and the pass/fail results as applicable.

(B) An AASP or APTSP shall have and shall prepare, analyze, and report the true value of audit samples in accordance with a written technical criteria document that describes how audit samples or PT samples will be prepared and distributed in a manner that will insure the integrity of the audit sample program. One acceptable APTSP technical criteria document is Volume 3, "General Requirements for Environmental Proficiency Test Providers" (incorporated by reference—

see § 60.17. An acceptable technical criteria document shall contain standard operating procedures for all of the following operations:

(1) Preparing the sample;
 (2) Confirming the true concentration of the sample;
 (3) Distributing the sample to the user in a manner that guarantees that the true value of the sample is unknown to the user;

(4) Recording the measured concentration reported by the user and determining if the measured value is within acceptable limits;

(5)(i) The AASP or APTSP shall report the results from each audit sample to the compliance authority and then to the source owner, operator, or representative. The AASP or APTSP shall make both reports at the same time and in the same manner or shall report to the compliance authority first and then report to the source owner, operator, or representative. The results shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

(ii) If the compliance authority does not report the results of the audit to the tested facility within five business days, the AASP or APTSP as appropriate must report the pass-fail results to the tested facility.

(6) Evaluating the acceptance limits of samples at least once every two years to determine in consultation with the voluntary consensus standard body if they should be changed.

(7) Maintaining a database, accessible to the compliance authorities, of results from the audit that shall include the name of the facility tested, the date on which the compliance test was conducted, the name of the company performing the sample collection, the name of the company that analyzed the compliance samples including the audit sample, the measured result for the audit sample, the true value of the audit sample, the acceptance range for the measured value, and whether the testing company passed or failed the audit.

(C) The accrediting body shall have a written technical criteria document that describes how it will insure that the AASP or APTSP is operating in accordance with the AASP or APTSP technical criteria document that describes how audit or PT samples are

to be prepared and distributed. This document shall contain standard operating procedures for all of the following operations:

(1) Checking audit samples to confirm their true value as reported by the AASP.

(2) Performing technical systems audits of the AASP's facilities and operating procedures at least once every two years.

(3) Providing standards for use by the voluntary consensus standard body to approve the accrediting body that will accredit the audit sample providers.

(D) The technical criteria documents for the accredited sample providers and the accrediting body shall be developed through a public process guided by a voluntary consensus standards body (VCSB). The VCSB shall operate in accordance with the procedures and requirements in the Office of Management and Budget *Circular A-119*. The VCSB shall approve all accrediting bodies. The Administrator will review all technical criteria documents. If the technical criteria documents do not meet the minimum technical requirements in paragraphs (c)(2)(iii)(B) through (C) of this section, the technical criteria documents are not acceptable and the proposed audit sample program is not capable of producing audit samples of sufficient quality to be used in a compliance test. All acceptable technical criteria documents are incorporated by reference in 40 CFR 60.17.

* * * * *

Appendix A—[Amended]

16. Amend Appendix A to Part 63 as follows:

a. In Method 306 by removing Sections 7.5, 7.5.1, 7.5.2, 9.1.8, 9.1.8.1, 9.1.8.2, 9.1.8.3, 9.1.9, 9.1.9.1, 9.1.9.2, 9.1.9.3, 9.1.9.4, 9.2.8, 9.2.8.1, 9.2.8.2, 9.2.8.3, 9.2.9, 9.2.9.1, 9.2.9.2, 9.2.9.3, 9.2.9.4, 9.3.6, 9.3.6.1, 9.3.6.2, 9.3.6.3, 9.3.7, 9.3.7.1, 9.3.7.2, 9.3.7.3, and 9.3.7.4.

b. In Method 306A by removing Sections 7.5, 7.5.1, and 7.5.2.

c. In Method 308 by removing Sections 9.2, 9.3, 9.4, and 9.5.

[FR Doc. E9-13726 Filed 6-15-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2009-0350; FRL-8918-3]

Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Air Pollution Control District portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from coating of metal parts, large appliances, metal furniture, motor vehicles, mobile equipment, cans, coils, and organic solvent cleaning, storage, and disposal related to such operations. We are approving three local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 16, 2009.

ADDRESSES: Submit comments, identified by docket number [EPA-R09-OAR-2009-0350], by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.

2. *E-mail:* steckel.andrew@epa.gov.

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all

documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947-4126, Law.Nicole@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to EPA.

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I. The State’s Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SJVAPCD	4603	Surface Coating of Metal Parts and Products	10/16/08	12/23/08
SJVAPCD	4604	Can and Coil Coating Operations	09/20/07	03/07/08
SJVAPCD	4612	Motor Vehicle and Mobile Equipment Coating Operations	09/20/07	03/07/08

On April 20, 2009 and April 17, 2008, these rule submittals were found to meet the completeness criteria in 40 CFR Part 51, Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

We approved versions of Rules 4603 and 4604 into the SIP on June 25, 2002 and May 19, 2002. Rule 4612 is replacing Rule 4602 which was approved into the SIP on June 26, 2002. The San Joaquin Valley Air Pollution Control District adopted revisions to the SIP-approved version of Rule 4603 on May 18, 2006, September 20, 2007, and October 16, 2008 and CARB submitted them to us on October 5, 2006, March 7, 2008, and December 23, 2008. While

we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals. No other versions of Rule 4604 and 4602/4612 have been adopted by the district after 2002.

C. What is the purpose of the submitted rule revisions?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The rules control VOC emissions by limiting VOC content in the coatings used for metal parts, large appliances, metal furniture, motor vehicles, mobile equipment, cans, and coils. In addition, the rules also limit

emission of VOCs by regulating organic solvent cleaning, storage, and disposal relating to the coating operations. The most significant changes in the rules are reductions of the VOC limits on organic solvents to 25 grams of VOC per liter solvent. EPA’s technical support documents (TSDs) have more information about these rules.

II. EPA’s Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (see section

182(a)(2)), and must not relax existing requirements (*see* sections 110(l) and 193). The San Joaquin Valley Air Pollution Control District regulates an ozone nonattainment area (*see* 40 CFR part 81), so Rules 4603, 4604, and 4612 must fulfill RACT.

Guidance and policy documents that we use to help evaluate specific enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

4. "Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings," EPA-453/R-08-003, September 2008.

5. "Control Techniques Guidelines for Large Appliance Coatings," EPA-453/R-07-004, September 2007.

6. "Control Techniques Guidelines for Metal Furniture Coatings," EPA-453/R-07-005, September 2007.

7. "Control of Volatile Organic Emissions From Existing Stationary Sources Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008, May 1977.

8. "Reasonably Available Control Technology (RACT) Demonstration for Ozone State Implementation Plans (SIP)" SJVAPCD, April 16, 2009.

9. "Suggested Control Measure for Automotive Coatings," CARB, October 2005.

10. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

11. "State Implementation Plans, General Preamble for the Implementation of Title I of the Clean Air Amendments of 1990" 57 FR 13498, April 16, 1992.

12. "Preamble, Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard" 70 FR 71612; Nov. 29, 2005.

13. Letter from William T. Hartnett to Regional Air Division Directors, "RACT Qs & As—Reasonable Available Control Technology (RACT) Questions and Answers," May 18, 2006.

B. Do the rules meet the evaluation criteria?

We believe these rules are generally consistent with the relevant policy and

guidance regarding enforceability, RACT, and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA recommendations to further improve the rule

The TSDs describe additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rule.

D. Public comment and final action

Because EPA believes the submitted rules fulfill all relevant requirements, we are proposing to fully approve them as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 2, 2009.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. E9-14020 Filed 6-15-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 191 and 194

[EPA-HQ-OAR-2009-0330; FRL-8916-5]

Intent To Evaluate Whether the Waste Isolation Pilot Plant Continues To Comply With the Disposal Regulations and Compliance Criteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; official opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) intends to evaluate and recertify whether or not the Waste Isolation Pilot Plant (WIPP) continues to comply with EPA's environmental radiation protection standards for the disposal of radioactive waste. Pursuant to the 1992 WIPP Land Withdrawal Act (LWA), as amended, the U.S.

Department of Energy (“DOE” or “Department”) must submit to EPA documentation of continued compliance with EPA’s standards for disposal and other statutory requirements every five years after the initial receipt of transuranic waste at WIPP. EPA initially certified that WIPP met applicable regulatory requirements on May 18, 1998, and the first shipment of waste was received at WIPP on March 26, 1999. The first Compliance Recertification Application (CRA) was submitted by DOE to EPA on March 26, 2004, and the Agency’s first recertification decision was issued on March 29, 2006.

EPA will determine whether WIPP continues to comply with EPA’s standards for disposal based on the CRA submitted by the Secretary of Energy. DOE’s 2009 recertification application was received by the EPA on March 26, 2009, and a copy may be found on EPA’s WIPP Web site and in the public dockets (see the **SUPPLEMENTARY INFORMATION & FOR FURTHER INFORMATION CONTACT** sections). The Director of the Office of Radiation and Indoor Air will make a determination as to the completeness of the application in the near future (approximately six months) and will notify the Secretary, in writing, when the Agency deems the application “complete.” EPA will evaluate the “complete” application in determining whether the WIPP facility continues to comply with the radiation protection standards for disposal. The Agency requests public comment on all aspects of the DOE’s application.

DATES: We are accepting comments in response to today’s document and on DOE’s 2009 recertification application. The ending date of the public comment period will be specified in a subsequent **Federal Register** document.

Announcements will be published in the **Federal Register** to provide information on the Agency’s completeness determination and final recertification decision.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0330, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: to a-and-r-docket@epa.gov.
- *Fax*: 202–566–1741.
- *Mail*: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Instructions: Direct your comments to Attn: Docket ID No. EPA–HQ–OAR–

2009–0330. The Agency’s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

These documents are also available for review in electronic (CD/DVD) format at the Carlsbad Municipal Library, Hours: Monday–Thursday, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday, 1 p.m.–5 p.m.,

phone number: 505–885–0731. As provided in EPA’s regulations at 40 CFR Part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Ray Lee, Office of Radiation and Indoor Air, Radiation Protection Division, Center for Radiation Information and Outreach, Mail Code 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; *telephone number*: 202–343–9463; *fax number*: 202–343–2305; *e-mail address*: lee.raymond@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments*. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

The Waste Isolation Pilot Plant (WIPP) was authorized in 1980, under section 213 of the DOE National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96–164, 93 Stat. 1259, 1265), “for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States.” WIPP is a disposal system for transuranic (TRU) radioactive waste. Developed by DOE, the facility is located near Carlsbad in southeastern New Mexico. TRU waste is emplaced 2,150 feet underground in an ancient layer of salt that will eventually “creep” and encapsulate the waste containers. WIPP has a total capacity of 6.2 million cubic feet of TRU waste.

The 1992 WIPP Land Withdrawal Act (LWA; Pub. L. 102–579)¹ limits radioactive waste disposal in WIPP to TRU radioactive wastes generated by defense-related activities. TRU waste is defined as waste containing more than 100 nano-curies per gram of alpha-emitting radioactive isotopes, with half-lives greater than twenty years and atomic numbers greater than 92. The Act further stipulates that radioactive waste shall not be TRU waste if such waste also meets the definition of high-level radioactive waste, has been specifically exempted from regulation with the concurrence of the Administrator, or has been approved for an alternate method of disposal by the Nuclear Regulatory Commission. The TRU radioactive waste proposed for disposal in WIPP consists of materials such as rags, equipment, tools, protective gear, and sludges that have become contaminated during atomic energy defense activities. The radioactive component of TRU waste consists of man-made elements created during the process of nuclear fission, chiefly isotopes of plutonium. Some TRU waste is contaminated with hazardous wastes regulated under the Resource Conservation and Recovery Act (RCRA; 42 U.S.C. 6901–6992k). The waste proposed for disposal at WIPP derives from Federal facilities across the

United States, including locations in Colorado, Idaho, New Mexico, Nevada, Ohio, South Carolina, Tennessee, and Washington.

WIPP must meet EPA’s generic disposal standards at 40 CFR Part 191, Subparts B and C, for high-level and TRU radioactive waste. These standards limit releases of radioactive materials from disposal systems for radioactive waste, and require implementation of measures to provide confidence for compliance with the radiation release limits. Additionally, the regulations limit radiation doses to members of the public, and protect ground water resources by establishing maximum concentrations for radionuclides in ground water. To determine whether the WIPP facility performs well enough to meet these disposal standards, EPA issued the WIPP Compliance Criteria (40 CFR Part 194) in 1997. The Compliance Criteria interpret and implement the disposal standards specifically for the WIPP site. They describe what information DOE must provide and how EPA evaluates WIPP’s performance and provides ongoing independent oversight. Thus, EPA implemented its environmental radiation protection standards, 40 CFR Part 191, by applying the WIPP Compliance Criteria, 40 CFR Part 194, to the disposal of TRU radioactive waste at WIPP. For more information about 40 CFR part 191, refer to **Federal Register** notices published in 1985 (50 FR 38066–38089, Sep. 19, 1985) and 1993 (58 FR 66398–66416, Dec. 20, 1993). For more information about 40 CFR part 194, refer to **Federal Register** notices published in 1996 (61 FR 5224–5245, Feb. 9, 1996) and 1995 (60 FR 5766–5791, Jan. 30, 1995).

Using the process outlined in the WIPP Compliance Criteria, EPA determined on May 18, 1998 (63 FR 27354), that DOE had demonstrated that WIPP complied with EPA’s radioactive waste disposal regulations at Subparts B and C of 40 CFR Part 191. EPA’s certification determination permitted WIPP to begin accepting TRU waste for disposal, provided that other applicable conditions and environmental regulations were met.

Since the 1998 certification decision, EPA has conducted ongoing independent technical review and inspections of all WIPP activities related to compliance with the EPA’s disposal regulations. The initial certification decision identified the starting (baseline) conditions for the WIPP site and established the waste and facility characteristics necessary to ensure proper disposal in accordance with the regulations. At that time, EPA and DOE

understood that future information and knowledge gained from the actual operations of WIPP would result in changes to the best practices and procedures for the facility.

In recognition of this, section 8(f) of the amended WIPP LWA requires EPA to evaluate all changes in conditions or activities at WIPP every five years to determine if WIPP continues to comply with EPA’s disposal regulations for the facility. This determination is not subject to standard rulemaking procedures or judicial review, as stated in the aforementioned section of the WIPP LWA.

The first recertification process began with DOE’s submittal of the initial Compliance Recertification Application (CRA), which was received by the Agency on March 26, 2004. EPA deemed the CRA–2004 to be complete on September 29, 2005, and published its first WIPP recertification decision on March 29, 2006 (71 FR 18010).

EPA received DOE’s second CRA on March 24, 2009. The Agency will review DOE’s 2009 recertification application to ensure that all of the changes made at WIPP since the initial recertification process (which took place from 2004–2006) have been accurately reflected and that the facility will continue to safely contain TRU radioactive waste. If EPA approves the CRA–2009, it will set the parameters for how WIPP will be operated by DOE over the following five years. This approved application will then serve as the baseline for the next recertification that will occur starting in 2014.

Recertification is not a reconsideration of the decision to open WIPP, but a process to reaffirm that the facility meets all requirements of the disposal regulations. The recertification process will not be used to approve any new significant changes proposed by DOE; any such proposals will be addressed separately by EPA. Recertification will ensure that WIPP is operated using the most accurate and up-to-date information available and provides documentation requiring DOE to operate to these standards.

With today’s notice, the Agency solicits public comment period on DOE’s documentation of whether the WIPP facility continues to comply with the disposal regulations. A copy of the application is available for inspection on EPA’s WIPP Web site (<http://www.epa.gov/radiation/wipp>) and in the public dockets described in the **SUPPLEMENTARY INFORMATION** section. Other background information documents related to the Agency’s recertification activities also available in our public dockets and on our WIPP

¹ The 1992 WIPP Land Withdrawal Act was amended by the “Waste Isolation Pilot Plant Land Withdrawal Act Amendments,” which were part of the National Defense Authorization Act for Fiscal Year 1997.

Web site. EPA will evaluate the complete application in determining whether WIPP continues to comply with the radiation protection standards for disposal. In addition, EPA will consider public comment and other information relevant to WIPP's compliance. The Agency is most interested in public comment on any issues where changes have occurred that may potentially impact WIPP's ability to remain in compliance with the requirements outlined in EPA's disposal regulations, as well as any areas where the public believes that changes have occurred and have not been identified by DOE.

The first step in the recertification process is a "completeness" determination. EPA will make this completeness determination in the near future as a preliminary step in its more extensive technical review of the application. This determination will be made using a number of the Agency's WIPP-specific guidances; most notably, the "Compliance Application Guidance" (CAG; EPA Pub. 402-R-95-014) and "Guidance to the U.S. Department of Energy on Preparation for Recertification of the Waste Isolation Pilot Plant with 40 CFR Parts 191 and 194" (Docket A-98-49, Item II-B3-14; December 12, 2000). Both guidance documents include guidelines regarding: (1) Content of certification/recertification applications; (2) documentation and format requirements; (3) time frame and evaluation process; and (4) change reporting and modification. The Agency developed these guidance documents to assist DOE with the preparation of any compliance application for WIPP. They are also intended to assist in EPA's review of any application for completeness and to enhance the readability and accessibility of the application for EPA and public scrutiny. It is EPA's intent that these guidance documents give DOE and the public a general understanding of the information that is expected to be included in a complete application of compliance. The EPA may request additional information as necessary from DOE to ensure the completeness of the CRA.

Once the 2009 recertification application is deemed complete, EPA will provide DOE with written notification of its completeness determination and publish a **Federal Register** notice announcing this determination as well. All correspondence between EPA and DOE regarding the completeness of the CRA-2009 will be placed in the public dockets.

EPA will make a final decision recertifying whether the WIPP facility continues to meet the disposal regulations after each of the aforementioned steps (technical analysis of the application, issuing a notice of the CRA-2009's completeness in the **Federal Register**, and analyzing public comment) have been completed. As required by the WIPP LWA, EPA will make a final recertification decision within six months of issuing its completeness determination.

List of Subjects in 40 CFR Parts 191 and 194

Environmental protection, Radiation protection, Transuranic radioactive waste, Waste treatment and disposal, Waste Isolation Pilot Plant.

Dated: June 3, 2009.

Elizabeth Cotsworth,

Director, Office of Radiation and Indoor Air.

[FR Doc. E9-14023 Filed 6-15-09; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket 03-123; DA 09-1255]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In this document, the Commission via the Consumer and Governmental Affairs Bureau (Bureau) extends the comment filing deadline for the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** May 21, 2009 (73 FR 23815). The Bureau finds that in this case an extension of the comment period is warranted to afford parties the necessary time to file comments that will result in a more complete record in this proceeding.

DATES: Comments are due July 6, 2009. Reply Comments are due July 20, 2009.

ADDRESSES: Interested parties may submit comments identified by CG Docket No. 03-123, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting electronic filings.
- *Federal Communications Commission's Electronic Comment*

Filing System (ECFS): <http://www.fcc.gov/cgb/ecfs>. Follow the instructions for submitting electronic filings.

- By filing paper copies.

For electronic filers through ECFS or the Federal eRulemaking Portal, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and CG Docket No. 03-123. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in response.

Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). DA 09-1255 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/trs.html>.

FOR FURTHER INFORMATION CONTACT: Thomas Chandler, Consumer and

Governmental Affairs Bureau, Disability Rights Office, at (202) 418-1475 (voice), (202) 418-0597 (TTY), or e-mail: Thomas.Chandler@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Consumer and Governmental Affairs Bureau's document DA 09-1255. Pursuant to 47 CFR 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section. The full text of DA 09-1255 and subsequently filed documents in this matter are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554; the contractor's Web site, <http://www.bcpiweb.com>; or by calling (800) 378-3160. DA 09-1255 and subsequently filed documents in this matter may also be found by searching ECFS at <http://www.fcc.gov/cgb/ecfs> (insert CG Docket No. 03-123 into the Proceeding block).

Synopsis

The Consumer and Governmental Affairs Bureau extends the comment period for issues raised in the *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Public Notice and Notice of

Proposed Rulemaking, CG Docket No. 03-123, FCC 09-39, published at 74 FR 23815, May 21, 2009 and 74 FR 23859, May 21, 2009 (*PN and NPRM*).

The *NPRM* portion seeks comment on whether, notwithstanding the rate methodology established in *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Declaratory Ruling, CG Docket No. 03-123, FCC 07-186, published at 73 FR 44170, July 30, 2008, the Commission should modify the compensation rates for Video Relay Service (VRS) for the 2009-2010 Fund year. Pursuant to the *NPRM*, comments are presently due on June 4, 2009, and reply comments are due June 11, 2009. Sorenson Communications, Inc. (Sorenson), a VRS provider, filed *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Motion to Rescind VRS Rate *NPRM* or, in the Alternative, to Extend the Comment Period, CG Docket No. 03-123 (May 19, 2009) (Motion to Rescind). A coalition of consumer organizations filed comments taking no position on Sorenson's *Motion to Rescind*, but supporting an extension of the comment period, *see Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Comments on Sorenson Communications, Inc.'s Motion to Rescind VRS Rate *NPRM* or, in the Alternative, to Extend the Comment

Period, filed by Telecommunications for the Deaf and Hard of Hearing, Inc.; Association of Late-Deafened Adults, Inc.; National Association of the Deaf; Deaf and Hard of Hearing Consumer Advocacy Network; California Coalition of Agencies Serving the Deaf and Hard of Hearing; American Association of the Deaf-Blind; and Hearing Loss Association of America (May 26, 2009).

Although the Commission does not routinely grant extensions of time, pursuant to 47 CFR 1.46(a), the Commission finds that in this case an extension of the comment period is warranted to afford parties the necessary time to file comments that will result in a more complete record in this proceeding. This limited extension will not unduly delay the Commission's consideration of the issues.

Ordering Clauses

The Motion to Extend the Comment Period filed by Sorenson Communications, Inc., *is granted* to the extent indicated herein.

This action is taken pursuant to the authority provided in § 1.46 of the Commission's rules, 47 CFR 1.46, and under delegated authority pursuant to §§ 0.141 and 0.361 of the Commission's rules, 47 CFR 0.141, 0.361.

Federal Communications Commission.

Suzanne M. Tetreault,

Acting Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. E9-13864 Filed 6-15-09; 8:45 am]

BILLING CODE 6712-01-P

Notices

Federal Register

Vol. 74, No. 114

Tuesday, June 16, 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

Forest Service

Notice of New Fee Site; Federal Lands Recreation Enhancement Act (Title VIII, Pub. L. 108-447)

AGENCY: Kaibab National Forest, USDA Forest Service, Arizona.

ACTION: Notice of new fee site.

SUMMARY: The Kaibab National Forest proposes to begin charging a new fee for the daily rental of Hull Cabin, located one mile south of the Grand Canyon on the Tusayan Ranger District. The new fee will consist of a summer rate of \$110.00 per day without water/\$140.00 per day with water, and a winter rate of \$75.00 per day without water. Hull Cabin is listed on the National Register of Historic Places and is the oldest surviving historic cabin near the Grand Canyon's south rim. Initially the cabin will be available for overnight use with a maximum capacity of six people. Management of the cabin may expand to include use as a group site and/or development of equestrian facilities. Other cabin rentals within the Arizona National Forests have shown that the public appreciates and enjoys the availability of historic rental facilities. Funds from the rental will be used for the continued operation and maintenance of Hull Cabin and other properties in the Arizona Cabin Rental Program.

DATES: Hull Cabin will become available for rent in spring of 2010.

ADDRESSES: Forest Supervisor, Kaibab National Forest, 800 6di St., Williams, Arizona 86046-2899.

FOR FURTHER INFORMATION CONTACT: Michael Lyndon, Archaeologist, Kaibab National Forest, 928-635-8272.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VIII, Pub. L. 108-447) directed the Secretary of Agriculture to publish a six month advance notice in

the **Federal Register** whenever new recreation fee areas are established. The Kaibab National Forest currently has one other cabin rental available (Spring Valley Cabin) that rents for \$100 to \$150.00 per day with a maximum capacity of 14 people. People wanting to rent Hull Cabin will need to do so through the National Recreation Reservation Service, at <http://www.recreation.gov> or by calling 1-877-444-6777. The National Recreation Reservation Service charges a \$9 fee per reservation.

Dated: May 19, 2009.

Michael R. Williams,

Forest Supervisor, Kaibab National Forest.

[FR Doc. E9-13987 Filed 6-15-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO-P-2008-0063]

Additional Period for Comments on Deferred Examination for Patent Applications

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments; additional comment period.

SUMMARY: The United States Patent and Trademark Office (USPTO) conducted a roundtable to obtain public input on deferral of examination for patent applications, and invited the public to submit written comments on issues raised at the roundtable or on any issue pertaining to deferral of examination. The USPTO is providing an additional comment period so that members of the public may submit additional comments on any issue pertaining to deferral of examination, and may also submit comments in reply to the comments on deferred examination that the USPTO has already received.

DATES: *Comment Deadline Date:* The deadline for receipt of written comments is August 31, 2009.

ADDRESSES: Written comments should be sent by electronic mail message over the Internet addressed to AC6comments@uspto.gov. Comments may also be submitted by mail addressed to: Mail Stop Comments—

Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Robert W. Bahr. Although comments may be submitted by mail, the USPTO prefers to receive comments via the Internet.

The written comments will be available for public inspection at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the USPTO Internet Web site (*address: http://www.uspto.gov*). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT:

Robert W. Bahr, Senior Patent Counsel, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272-8800, by electronic mail message at robert.bahr@uspto.gov, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Robert W. Bahr.

SUPPLEMENTARY INFORMATION: The USPTO conducted a roundtable to determine whether or not there is support in the patent community and/or the public sector for the adoption of some type of deferral of examination. *See Request for Comments and Notice of Roundtable on Deferred Examination for Patent Applications*, 74 FR 4946 (Jan. 28, 2009), 1339 *Off. Gaz. Pat. Office* 153 (Feb. 24, 2009) (notice). The USPTO webcast the roundtable, and a video recording of the roundtable as well as the list of participants and their associations are available on the USPTO's Internet Web site at <https://uspto.connectsolutions.com/p91717658> (video recording of the roundtable) and <http://www.uspto.gov/main/homepagenews/2009feb09.htm> (list of participants).

The USPTO also invited written comments by any member of the public on the issues raised at the roundtable, or on any issue pertaining to deferral of examination. *See Request for Comments and Notice of Roundtable on Deferred Examination for Patent Applications*, 74 FR at 4947, 1339 *Off. Gaz. Pat. Office* at 154. This comment period was extended until May 29, 2009, to provide interested members of the public with

an additional opportunity to view the webcast before submitting comments to the USPTO. See Extension of Time for Comments on Deferred Examination for Patent Applications. 74 FR 10036 (Mar. 9, 2009), 1340 Off. Gaz. Pat. Office 262 (Mar. 31, 2009) (notice). The USPTO has posted the comments received prior to May 29, 2009, on the USPTO's Internet Web site at <http://www.uspto.gov/web/offices/pac/dapp/opla/comments/index.html>.

The USPTO is providing an additional comment period so that members of the public may submit additional comments on any issue pertaining to deferral of examination, and may also submit comments in reply to the comments on deferred examination that the USPTO has already received. Persons submitting written comments should note that the USPTO does not plan to provide a "comment and response" analysis of such comments as this notice is not a notice of proposed rule making.

Dated: June 9, 2009.

John J. Doll,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. E9-14154 Filed 6-15-09; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcement of a Workshop on Privilege (Access) Management

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of public workshop.

SUMMARY: The National Institute of Standards and Technology (NIST), in conjunction with the National Security Agency, will hold a public workshop on September 1-3, 2009, at the NIST Gaithersburg campus. The workshop is open to the public but requires registration and an attendance fee. The goal of this workshop is to have the workshop serve as the first step towards the development of a Special Publication on Privilege (Access) Management. A four-pronged approach will be taken to create a suite of definitions for Privilege (Access) Management, create standard models and frameworks for the U.S. Government, based on ITU-T X.812, create a statement on technology and needed research, and to document scenarios and policy considerations.

There will be subsequent workshops to further develop and refine the content of this draft Special Publication.

DATES: The workshop will be held on September 1-2, 2009, 9 a.m. till 5 p.m.; and September 3, 2009, 9 a.m. till 12:30 p.m.

ADDRESSES: The workshop will be held in the Green Auditorium of the Administration Building on the NIST Gaithersburg campus, 100 Bureau Drive, Gaithersburg, Maryland 20899. Please note registration and admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tanya Brewer, T: (301) 975-4534, E: tbrewer@nist.gov.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology (NIST), in conjunction with the National Security Agency, will hold a public workshop on September 1-3, 2009, at the NIST Gaithersburg campus. The workshop is open to the public but requires registration and an attendance fee. The goal of this workshop is to have the workshop serve as the first step towards the development of a Special Publication on Privilege (Access) Management. A four-pronged approach will be taken to create a suite of definitions for Privilege (Access) Management, create standard models and frameworks for the U.S. Government, based on ITU-T X.812, create a statement on technology and needed research, and to document scenarios and policy considerations. There will be subsequent workshops to further develop and refine the content of this draft Special Publication.

This workshop is open to the public, but requires registration in advance. Registration fee is \$160, and includes lunch for the first two days. Please register online at http://www.nist.gov/public_affairs/confpage/conflist.htm. The registration deadline is August 25, 2009. A forthcoming URL with agenda and materials will be linked from the registration site.

All visitors to the NIST campus are required to register in advance. No late or same-day registrations will be accepted for this reason. All attendees must present a government-issued ID when gaining access to the campus.

Dated: June 9, 2009.

Patrick Gallagher,

Deputy Director.

[FR Doc. E9-14141 Filed 6-15-09; 8:45 am]

BILLING CODE 3510-13-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; information collection 3038-0043, Rules Relating to Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration, and Member Responsibility Actions.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before July 16, 2009.

FOR FURTHER INFORMATION OR A COPY CONTACT: Gail B. Scott at CFTC, (202) 418-5139; FAX: (202) 418-5524; e-mail: gscott@cftc.gov and refer to OMB Control No. 3038-0043.

SUPPLEMENTARY INFORMATION:

Title: Rules Relating to Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration, and Member Responsibility Actions, OMB Control No. 3038-0043. This is a request for extension of a currently approved information collection.

Abstract: 17 CFR part 171 rules require a registered futures association to provide fair and orderly procedures for membership and disciplinary actions. The Commission's review of decisions of registered futures associations in disciplinary, membership denial, registration, and member responsibility actions is governed by Section 17(h)(2) of the Commodity Exchange Act, 7 U.S.C. Section 21(h)(2). The rules establish procedures and standards for Commission review of such actions, and the reporting requirements included in the procedural rules are either directly required by Section 17 of the Act or are necessary to the type of appellate review role Congress intended the Commission to undertake when it adopted that provision.

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 the CFTC's regulations

were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on February 8, 2006 (71 FR 6455).

Burden statement: The respondent burden for this collection is estimated to average .5 hours per response. This estimate 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; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 25.

Estimated number of responses: 51.3.

Estimated total annual burden on respondents: 25.6 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038-0043 in any correspondence.

Gail B. Scott, Office of General Counsel, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581 and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the CFTC, 725 17th Street, NW., Washington, DC 20503.

Issued in Washington, DC, on June 11, 2009.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E9-14136 Filed 6-15-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of Federal Advisory Committee

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.65, the Department of Defense gives notice that it intends to

revise the charter for the Secretary of the Navy Advisory Panel by increasing the Panel's membership from 15 to 20.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, DoD Committee Management Office, 703-601-2554, extension 128.

SUPPLEMENTARY INFORMATION: The Secretary of the Navy Advisory Panel, pursuant to 41 CFR 102-3.50(d), is a discretionary federal advisory committee established to provide the Secretary of the Navy independent advice and recommendations on the critical matters concerning the Department of the Navy. The Panel's focus will include acquisition reform, the shipbuilding defense industrial base, intelligence organization, and related maritime issues. In accordance with DoD policy and procedures, the Secretary of the Navy is authorized to act upon the advice emanating from this advisory committee.

The Secretary of the Navy Advisory Panel shall be composed of not more than 20 members, who are eminent authorities in the fields of national security policy, intelligence, science, engineering, or business and industry. The Secretary of the Navy Advisory Panel, in keeping with DoD policy to make every effort to achieve a balanced membership, shall include a cross section of experts that are directly affected, interested and qualified to advise on U.S. defense and naval issues.

Panel and subcommittee members appointed by the Secretary of Defense, who are not full-time Federal officers or employees, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109 and serve as Special Government Employees. Panel and subcommittee members shall be appointed on an annual basis by the Secretary of Defense, and with the exception of travel and per diem for official travel shall serve without compensation. The Secretary of the Navy shall select the Panel's chairperson from the total Panel membership.

The Secretary of the Navy Advisory Panel shall meet at the call of the Panel's Designated Federal Officer, in consultation with the chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee and subcommittee meetings.

The Secretary of the Navy Advisory Panel shall be authorized to establish

subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, and other appropriate Federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered committee, and shall report all their recommendations and advice to the Secretary of the Navy Advisory Panel for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Department of Defense or any Federal officers or employees who are not members of the Secretary of the Navy Advisory Panel.

Pursuant to 41 CFR 102-3.105(j) and 102-3.140, the public or interested organizations may submit written statements to the Secretary of the Navy Advisory Panel membership about the Panel's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Secretary of the Navy Advisory Panel.

All written statements shall be submitted to the Designated Federal Officer for the Secretary of the Navy Advisory Panel, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Secretary of the Navy Advisory Panel's Designated Federal Officer can be obtained from the GSA's FACA Database—<https://www.fido.gov/facadatabase/public.asp>.

The Designated Federal Officer, pursuant to 41 CFR 102-3.150, will announce planned meetings of the Secretary of the Navy Advisory Panel. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: June 9, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E9-14093 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Office of the Secretary****National Security Education Board Members Meeting**

AGENCY: Under Secretary of Defense Personnel and Readiness, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a forthcoming meeting of the National Security Education Board. The purpose of the meeting is to review and make recommendations to the Secretary of Defense concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102-183, as amended.

DATES: June 24, 2008 (8:30 a.m.–12:30 p.m.).

ADDRESSES: National Security Education Program, 1101 Wilson Blvd., Suite 1210, Arlington, VA 22219.

FOR FURTHER INFORMATION CONTACT: Dr. Kevin Gormley, Program Officer, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn P.O. Box 20010, Arlington, Virginia 22209-2248; (703) 696-1991. Electronic mail address: Gormleyk@ndu.edu.

SUPPLEMENTARY INFORMATION: The National Security Education Board Members meeting is open to the public. The public is afforded the opportunity to submit written statements associated with NSEP.

Dated: June 8, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9-14091 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

which result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Cindy Allard at (703) 588-6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Office of the Secretary of Defense proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 4, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION:

NSLRB 01

The National Security Labor Relations Board (NSLRB) (February 22, 2006, 71 FR 9102).

REASON:

The Office of the Secretary of Defense never implemented this portion of the National Security Personnel System (NSPS) and no collection of records was ever made.

[FR Doc. E9-14092 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

16, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the National Security Agency/Central Security Service, Office of Policy, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755-6248.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Hill at (301) 688-6527.

SUPPLEMENTARY INFORMATION: The National Security Agency's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The National Security Agency/Central Security Service is deleting a system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974 (U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 8, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

GNSA 11

SYSTEM NAME:

NSA/CSS Time, Attendance and Absence (February 22, 1993, 58 FR 10531).

REASON:

The records contained in this system of records are covered by GNSA 08, NSA/CSS Payroll Processing File (June 8, 2009, 74 FR 27114).

[FR Doc. E9-14096 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DOD-2009-OS-0081]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to delete a System of Records.

SUMMARY: The Office of the Secretary of Defense is deleting NSLRB 01 system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 16, 2009 unless comments are received

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DOD-2009-OS-0086]

Privacy Act of 1974; System of Records

AGENCY: National Security Agency/Central Security Service.

ACTION: Notice to delete a System of Records.

SUMMARY: The National Security Agency/Central Security Service is deleting a system of records notice from its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on July

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DOD-2009-OS-0084]

Privacy Act of 1974; System of Records

AGENCY: Defense Information Systems Agency, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: Defense Information Systems Agency proposes to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July

16, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Defense Information Systems Agency, 5600 Columbia Pike, Room 933-I, Falls Church, VA 22041-2705.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette M. Weathers-Jenkins at (703) 681-2103.

SUPPLEMENTARY INFORMATION: The Defense Information Systems Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were submitted on June 5, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 8, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

K890.03

SYSTEM NAME:

Military Awards Case History File (February 22, 1993, 58 FR 10562).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Military Personnel Division, Manpower, Personnel, and Security Directorate, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502 and organizational elements that maintained records for the Joint Military Award approval authorities.

Official mailing addresses are published as an appendix to the DoD Component's compilation of system of records notices."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Military members assigned to the Defense Information Systems Agency (DISA) that have been recommended and/or received an award that was approved by the Director, Vice Director,

Chief of Staff, or other Joint Awards approval authorities."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Individual's name, Social Security Number (SSN), organization name, telephone number, and office symbol, citation, orders, biographical summary sheet, minutes of the awards board meetings, award recommendation (DISA Form 530), narrative justification, personnel briefs, memorandums, and similar relevant information."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "DoD 1348.33-M, Manual of Military Decorations and Awards; AR 600-8-22, Military Awards; SECNAVINST 1650.1G, Navy and Marine Corps Awards Manual; AFI 36-2803, The Air Force Awards and Decorations Program; 10 U.S.C. 1121, Legion of Merit: Award and E.O. 9397 (SSN)."

PURPOSE(S):

Delete entry and replace with "Used by the DISA awards personnel to manage the awards program of this Agency and the information that the Department of Defense uses to grant or deny joint awards."

* * * * *

STORAGE:

Delete entry and replace with "Paper records in file folders and electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Individual's name and Social Security Number (SSN)."

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "For Approval Authorities: Military Awards Record Sets are kept on file for 15 years. Destroyed upon the 16th year after the approval, disapproval, or downgrade of the award.

For Non-Approval Authorities: Military Awards Record Sets are kept on file for 2 years. Destroyed upon the 3rd year of receipt of the approval, disapproval, or downgrade of the award."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "The Defense Information Systems Agency Joint Military Awards Manager, Defense Information Systems Agency, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Joint Military Awards Manager, Attn: Military Personnel Division/MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502.

Requests should contain individual's name, rank, and Social Security Number (SSN).

The requester may visit the Military Personnel Division, MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502. As proof of identity the requester will present their U.S. Armed Forces ID Card or Common Access Card (CAC)."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Joint Military Awards Manager, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502.

Requests should contain individual's name, rank, and Social Security Number (SSN).

The requester may visit the Military Personnel Division, MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502. As proof of identity the requester will present their U.S. Armed Forces ID Card or Common Access Card (CAC)."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "DISA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DISA Instruction 220-25-8; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual, military recommendations, and military reports and forms."

* * * * *

K890.03

SYSTEM NAME:

Awards Case History File.

SYSTEM LOCATION:

Military Personnel Division, Manpower, Personnel, and Security Directorate, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502 and

organizational elements that maintained records for the Joint Military Award approval authorities.

Official mailing addresses are published as an appendix to the DoD Component's compilation of system of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members assigned to the Defense Information Systems Agency (DISA) that have been recommended and/or received an award that was approved by the Director, Vice Director, Chief of Staff, or other Joint Awards approval authorities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), organization name, telephone number, and office symbol, citation, orders, biographical summary sheet, minutes of the awards board meetings, award recommendation (DISA Form 530), narrative justification, personnel briefs, memorandums, and similar relevant information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

DoD 1348.33-M, Manual of Military Decorations and Awards; AR 600-8-22, Military Awards; SECNAVINST 1650.1G, Navy and Marine Corps Awards Manual; AFI 36-2803, The Air Force Awards and Decorations Program; 10 U.S.C. 1121, Legion of Merit: Award and E.O. 9397 (SSN).

PURPOSE(S):

Used by the DISA awards personnel to manage the awards program of this Agency and the information that the Department of the Defense uses to grant or deny joint awards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the DISA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name and Social Security Number (SSN).

SAFEGUARDS:

Building employs security guards. Records are maintained in area which is accessible only to authorized personnel that are properly screened, cleared, and their duties require them to be in the area where the records are maintained.

RETENTION AND DISPOSAL:

For Approval Authorities: Military Awards Record Sets are kept on file for 15 years. Destroyed upon the 16th year after the approval, disapproval, or downgrade of the award.

For Non-Approval Authorities: Military Awards Record Sets are kept on file for 2 years. Destroyed upon the 3rd year of receipt of the approval, disapproval, or downgrade of the award.

SYSTEM MANAGER(S) AND ADDRESS:

The Defense Information Systems Agency Joint Military Awards Manager, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Joint Military Awards Manager, Attn: Military Personnel Division/MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502.

Requests should contain individuals' name, rank, and Social Security Number (SSN).

The requester may visit the Military Personnel Division, MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502. As proof of identity the requester will present their U.S. Armed Forces ID Card or Common Access Card (CAC).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Joint Military Awards Manager, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502.

Requests should contain individuals' name, rank, and Social Security Number (SSN).

The requester may visit the Military Personnel Division, MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502. As proof of identity the requester will present their U.S. Armed Forces ID Card or Common Access Card (CAC).

CONTESTING RECORD PROCEDURES:

DISA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DISA Instruction 220-25-8, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, military recommendations, and military reports and forms.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-14099 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2009-OS-0080]

Privacy Act of 1974; System of Records

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice to add a new System of Records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This Action will be effective without further notice on July 16, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the FOIA/PA Program Manager, Corporate Communications and Legislative Liaison, Defense Finance and Accounting Service, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (720) 242-6631.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 3, 2009, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency

Responsibilities for Maintaining Records About Individuals,' dated December 12, 2000, 65 FR 239.

Dated: June 4, 2009.

Morgan E. Frazier,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.

T7108

SYSTEM NAME:

Base Accounts Receivable System (BARS).

SYSTEM LOCATION(S):

Defense Information Systems Agency (DISA), Defense Enterprise Computing Center (DECC)—Montgomery, 401 East Moore Drive, Maxwell Air Force Base, Alabama 36114-3001.

Defense Information Systems Agency (DISA), Defense Enterprise Computing Center (DECC)—Ogden, 7879 Wardleigh Road, Hill Air Force Base, Utah 84058-5997.

Defense Information Systems Agency (DISA), Defense Enterprise Computing Center (DECC)—Mechanicsburg, Bldg 308, Naval Support Activity (NSA), 5450 Carlisle Pike, Mechanicsburg, PA 17050-2411.

Defense Finance and Accounting Service, DFAS—Denver, 6760 E. Irvington Place, Denver, CO 80279-8000.

Defense Finance and Accounting Service, DFAS—Limestone, 27 Arkansas Road, Limestone, ME 04751-1500.

Defense Finance and Accounting Service, DFAS—Japan, Building 206 Unit 5220, APO AP 96328-5220.

Defense Finance and Accounting Service, DFAS—Columbus, 3990 East Broad St, Columbus, OH 43213-1152.

Defense Finance and Accounting Service, DFAS—Indianapolis, 8899 East 56th Street, Indianapolis, IN 46249-0150.

Secretary of the Air Force, SAF/FMBMB—AFO, 201 12th Street, Suite 512B, Arlington, VA 22202-5408.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Air Force military members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), address, billing and accounts receivable information, and delinquent account information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental regulations, Department of Defense Financial Management Regulation (DoDFMR) 7000.14-R Vol. 4, 31 U.S.C. Sections 3511 and 3513, and E.O. 9397 (SSN).

PURPOSE(S):

This system will automate the accounts receivable functions on Air Force bases for trailer space rentals, Class B telephones, and miscellaneous reimbursement accounts. It will bill customers for current monthly charges in addition to collecting cash payments from cash customers and payroll deductions from Air Force military customers out of their military pay accounts. Accounts receivable records will be maintained for customers billed by account type and it will provide monthly management reports. In addition, the system will generate follow-up documents that will provide the system users information on interest charges incurred on delinquent accounts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the DFAS compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media and hard copy records.

RETRIEVABILITY:

Name and Social Security Number (SSN).

SAFEGUARDS:

Records are stored in an office building protected by guards, controlled screening, use of visitor registers, electronic access, and/or locks. Access to records is limited to authorized individuals who are properly screened and cleared on a need-to-know basis in the performance of their duties. Passwords and digital signatures are used to control access to the system data, and procedures are in place to deter and detect browsing and unauthorized access. Physical and electronic access is limited to persons responsible for servicing and authorized to use the system.

RETENTION AND DISPOSAL:

Records may be temporary in nature and deleted when actions are completed, superseded, obsolete, or no longer needed. Some records may be cut

off at the end of the payroll year, and then destroyed up to 6 years and 3 months after cutoff. Records are destroyed by degaussing the electronic media and recycling hardcopy records. The recycled hardcopies are destroyed by shredding, burning, or pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Finance and Accounting Service, Denver, System Management Directorate, Accounting and Cash Systems, 6760 E. Irvington Place, Denver, CO 80279-8000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 8899 56th Street, Indianapolis, IN 46249-0150.

Individuals should furnish full name, Social Security Number (SSN), current address and telephone number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

Individuals should furnish full name, Social Security Number (SSN), current address and telephone number.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11-R; 32 CFR part 324; or may be obtained from Defense Finance and Accounting Service, Freedom of Information/Privacy Act Program Manager, Corporate Communications and Legislative Liaison, 8899 E. 56th Street, Indianapolis, IN 46249-0150.

RECORD SOURCE CATEGORIES:

From the individual concerned or the U.S. Air Force.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-14102 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DOD-2009-OS-0082]

Privacy Act of 1974; System of Records**AGENCY:** Defense Information Systems Agency, DoD.**ACTION:** Notice to amend a System of Records.**SUMMARY:** Defense Information Systems Agency proposes to amend a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.**DATES:** This proposed action will be effective without further notice on July 16, 2009 unless comments are received which result in a contrary determination.**ADDRESSES:** Send comments to the Defense Information Systems Agency, 5600 Columbia Pike, Room 933-I, Falls Church, VA 22041-2705.**FOR FURTHER INFORMATION CONTACT:** Ms. Jeanette M. Weathers-Jenkins at (703) 681-2103.**SUPPLEMENTARY INFORMATION:** The Defense Information Systems Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 8, 2009.

Morgan E. Frazier,
*Alternate OSD Federal Register Liaison
 Officer, Department of Defense.*

KWHC.01**SYSTEM NAME:**Agency Training File System
(February 22, 1993, 58 FR 10562).**CHANGES:**

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Any military employee undergoing formal commercial training, Agency Training, Academy Training, or Military Occupational Specialty (MOS) training."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Individual's name, address, birth date, Social Security Number (SSN), Individual Training Record (ITR) includes information on training progress, examination records and results of qualification boards and/or examinations leading to the designated qualification and training state."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 41, The Government Employees Training Act; E.O. 11348, Providing for the further training of Government employees, as amended by E.O. 12107, Relating to the Civil Service Commission and labor-management in the Federal Service; 5 CFR part 410, Office of Personnel Management-Training and E.O. 9397 (SSN)."

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STORAGE:

Delete entry and replace with "Electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Retrieved by name or Social Security Number (SSN)."

SAFEGUARDS:

Delete entry and replace with "Records are maintained in secure, limited access, or monitored areas. Database is monitored and access is password protected. Physical entry by unauthorized persons is restricted through the use of locks, guards, passwords, or other administrative procedures. Access to personal information is limited to those individuals who require the records to perform their official assigned duties."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "White House Communications Agency, 2743 Defense Blvd., SW., Anacostia Annex, DC 20373-5117."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the White House Communications Agency, 2743 Defense Blvd., SW., Anacostia Annex, DC 20373-5117.

Written requests for information should contain the full name of the individual, current address and telephone number and category of information requested.

For personal visits, the individual should be able to provide some

acceptable identification, such as driver's license, employee or military identification card."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the White House Communications Agency, 2743 Defense Blvd, SW., Anacostia Annex, DC 20373-5117.

Written requests for information should contain the full name of the individual, current address and telephone number and category of information requested.

For personal visits, the individual should be able to provide some acceptable identification, such as a driver's license, employee or military identification card."

KWHC.01**SYSTEM NAME:**

Agency Training File System.

SYSTEM LOCATION:

Primary System-Adjutant, Defense Information Systems Agency Administrative Unit. Official mailing addresses are published as an appendix to DISA's compilation of systems of records notices.

Decentralized Segments-Defense Communications Operations Unit, White House Communications Defense Communications Support Unit. Official mailing addresses are published as an appendix to DISA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any military employee undergoing formal commercial training, Agency Training Academy Training, or Military Occupational Specialty (MOS) training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, address, birth date, Social Security number (SSN), Individual Training Record (ITR) includes information on training progress, examination records and results of qualification boards and/or examinations leading to the designated qualification and training state.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 41, The Government Employees Training Act; E.O. 11348, Providing for the further training of Government employees, as amended by E.O. 12107, Relating to the Civil Service Commission and labor-management in the Federal Service; 5 CFR part 410, Office of Personnel Management-Training and E.O. 9397 (SSN).

PURPOSE(S):

Provide agency and individual training for job efficiency, advancement and to increase individual production. Qualify individuals in all occupations and details within agency. Meet service requirements for annual occupation testing. Instill confidence and motivation for self-improvement and enhance promotion potential. Establish clear path for increase in qualification throughout career development.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the DISA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Electronic storage media.

RETRIEVABILITY:

Retrieved by name or Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in secure, limited access, or monitored areas. Database is monitored and access is password protected. Physical entry by unauthorized persons is restricted through the use of locks, guards, passwords, or other administrative procedures. Access to personal information is limited to those individuals who require the records to perform their official assigned duties.

RETENTION AND DISPOSAL:

Records are permanent. They are retained in active file during active career, retired to service transfer point on release from active duty.

SYSTEM MANAGER(S) AND ADDRESS:

White House Communications Agency, 2743 Defense Blvd., SW., Anacostia Annex, DC 20373-5117.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the White House Communications Agency, 2743 Defense Blvd., SW., Anacostia Annex, DC 20373-5117.

Written requests for information should contain the full name of the individual, current address and telephone number and category of information requested.

For personal visits, the individual should be able to provide some acceptable identification, such as driver's license, employee or military identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the White House Communications Agency, 2743 Defense Blvd., SW., Anacostia Annex, DC 20373-5117.

Written requests for information should contain the full name of the individual, current address and telephone number and category of information requested.

For personal visits, the individual should be able to provide some acceptable identification, such as a driver's license, employee or military identification card.

CONTESTING RECORD PROCEDURES:

DISA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DISA Instruction 210-225-2; 32 CFR part 316; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Application and related forms from individual, performance tests, recommendations, service departments, written tests, previous commands and records custodians.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-14100 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DOD-2009-OS-0083]

Privacy Act of 1974; System of Records

AGENCY: Defense Information Systems Agency, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: Defense Information Systems Agency proposes to alter a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on July 16, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Defense Information Systems Agency, 5600 Columbia Pike, Room 933-I, Falls Church, VA 22041-2705.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanette M. Weathers-Jenkins at (703) 681-2103.

SUPPLEMENTARY INFORMATION: The Defense Information Systems Agency systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were submitted on June 5, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 8, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

K890.04

SYSTEM NAME:

Military Personnel Management/Assignment Files (February 22, 1993, 58 FR 10562).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Military Personnel Division, MPS2, Headquarters, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, Virginia 22204-4502."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Individual's name, Social Security Number (SSN), address, phone number, rank, qualification records, duty status, special orders, assignment actions, personnel action requests, assignment history and eligibility, and military and civilian education history."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 301, Departmental Regulations; DoD Directive 5105.19, Defense Information Systems Agency (DISA) and E.O. 9397 (SSN)."

PURPOSE(S):

Delete entry and replace with "To assist officials and employees of Defense Information Systems Agency in the management, supervision, and administration of military personnel (officer and enlisted) assigned to the agency and in the operations of related personnel affairs and functions."

* * * * *

STORAGE:

Delete entry and replace with "Paper records in file folders and electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Individual's name and Social Security Number (SSN)"

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are destroyed upon reassignment from DISA".

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Director for Personnel, MPS, Headquarters, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, Virginia 22204-4502."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Director for Personnel, MPS, Headquarters, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, Virginia 22204-4502."

Requests should contain individual's name, current address, and phone number.

The requester may visit the Military Personnel Division, MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502. As proof of identity the requester will present their U.S. Armed Forces ID Card."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the Deputy Director for Personnel, MPS, Headquarters, Defense Information Systems Agency, 701 S.

Courthouse Rd., Arlington, Virginia 22204-4502.

Requests should contain individual's name, rank, and Social Security (SSN).

The requester may visit the Military Personnel Division, MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502. As proof of identity the requester will present their U.S. Armed Forces ID Card."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "DISA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DISA Instruction 220-25-8; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual and military departments."

* * * * *

K890.04**SYSTEM NAME:**

Military Personnel Management/Assignment Files.

SYSTEM LOCATION:

Military Personnel Division, MPS2, Headquarters, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, Virginia 22204-4502.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on military personnel of the Army, Air Force, Navy and Marine Corps currently assigned to the Defense Information Systems Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number (SSN), address, phone number, rank, qualification records, duty status, special orders, assignment actions, personnel action requests, assignment history and eligibility, and military and civilian education history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DoD Directive 5105.19, Defense Information Systems Agency (DISA) and E.O. 9397 (SSN).

PURPOSE(S):

To assist officials and employees of Defense Information Systems Agency in the management, supervision, and administration of military personnel (officer and enlisted) assigned to the agency and in the operations of related personnel affairs and functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the DISA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name and Social Security Number (SSN).

SAFEGUARDS:

Building employs security guards. Records are maintained in area which is accessible only to authorized personnel who are properly screened, cleared, and their duties require them to be in the area where the records are maintained.

RETENTION AND DISPOSAL:

Records are destroyed upon reassignment from DISA.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director for Personnel, MPS, Headquarters, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, Virginia 22204-4502.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Director for Personnel, MPS, Headquarters, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, Virginia 22204-4502.

Requests should contain individual's name, current address, and phone number.

The requester may visit the Military Personnel Division, MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502. As proof of identity the requester will present their U.S. Armed Forces ID Card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Deputy Director for Personnel, MPS, Headquarters, Defense

Information Systems Agency, 701 S. Courthouse Rd., Arlington, Virginia 22204-4502.

Requests should contain individual's name, rank, and Social Security Number (SSN).

The requester may visit the Military Personnel Division, MPS2E, HQ, Defense Information Systems Agency, 701 S. Courthouse Rd., Arlington, VA 22204-4502. As proof of identity the requester will present their U.S. Armed Forces ID Card.

CONTESTING RECORD PROCEDURES:

DISA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DISA Instruction 220-25-8; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual and military departments.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-14098 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD-2009-OS-0079]

Privacy Act of 1974; System of Records

AGENCY: National Security Agency/Central Security Service, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The National Security Agency/Central Security Service is proposing to alter an exempt system of records to its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on July 16, 2009 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the National Security Agency/Central Security Service, Office of Policy, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755-6248.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Hill at (301) 688-6527.

SUPPLEMENTARY INFORMATION: The National Security Agency's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been

published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 21, 2009, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals", dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 4, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

GNSA 10

SYSTEM NAME:

NSA/CSS Personnel Security File (February 22, 1993, 58 FR 10531).

CHANGES:

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CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Records relevant to access classified information, assignment and reassignment, foreign official and unofficial travel, access to NSA/CSS spaces or facilities, access to NSA's Intranet, and other personnel actions where security represents a relevant and valid element of the determination. Records may consist of name, Social Security Number (SSN), home address, home phone number, security file number, statement of personal history, photograph, fingerprint data, agreements with respect to specific security processing procedures, security processing forms and records, investigative and polygraph reports, appeal records, incident and complaint reports, unsolicited information when relevant, reports by domestic law enforcement agencies when relevant, clearance data, access authorization, foreign travel data, security secrecy agreements and financial data".

AUTHORITY FOR MAINTENANCE OF SYSTEM:

Delete entry and replace with "50 U.S.C. Sections 831-835, Personnel Security Procedures in the National Security Agency; E.O. 10450, as amended, Security Requirements for Government Employment; E.O. 10865, as amended, Safeguarding Classified Information Within Industry, E.O. 12968, Access to Classified Information; and E.O. 9397 (SSN)".

PURPOSE(S):

Delete entry and replace with "The records are used for the purpose of determining suitability, eligibility, or qualification for civil employment, Federal contracts, or access to classified information and/or NSA/CSS spaces and facilities; to determine access to NSA's Intranet, to determine and ensure continued eligibility for access to classified information; to record adjudicative actions and determinations; to record processing steps taken; to document due process actions taken; to make determinations on official and unofficial foreign travel; to make determinations on assignment and reassignment and other actions where security represents a relevant and valid element of the determination".

ROUTINE USE OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To agencies outside DoD, to include but not limited to other clearance holder agencies or agencies charged with making clearance determinations, government agencies involved with national security or clearance investigations, other government agencies and private contractors requiring clearance status information and authorized to receive same; the Director National Intelligence (DNI) and his General Counsel in the event of litigation or anticipated litigation with respect to unauthorized disclosures of classified intelligence or intelligence sources and methods and related court actions; judicial branch elements pursuant to specific court orders or litigation.

In addition, other government agencies or private contractors may be informed of information developed by NSA which bears on assignee's or affiliate's status at NSA with regard to security considerations.

To local law enforcement (county and State) and other Federal, State, or local agencies or departments for hiring purposes.

To any entity or individual under contract with NSA/CSS for the purpose of providing security-related services.

To any party, council, representative, and/or witness in any legal proceeding, where pertinent, to which DoD is a party before a court or administrative body (including, but not limited to, the

Equal Employment Opportunity Commission and Merit System Protection Board).

The DoD 'Blanket Routine Uses' set forth at the beginning of the NSA/CSS' compilation of systems of records notices apply to this system".

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with "Paper in file folders and electronic storage media".

RETRIEVABILITY:

Delete entry and replace with "By name, Social Security Number (SSN), or unique Security File Number".

SAFEGUARDS:

Delete entry and replace with "Buildings are secured by a series of guarded pedestrian gates and checkpoints. Access to facilities is limited to security-cleared personnel and escorted visitors only. Within the facilities themselves, access to paper and computer printouts are controlled by limited-access facilities and lockable containers. Access to electronic means is limited and controlled by computer password protection".

RETENTION AND DISPOSAL:

Delete entry and replace with "Records containing no derogatory information are reviewed for retention 10 years after date of last action then destroyed; records containing derogatory information are reviewed for retention 25 years after last action then destroyed.

Records are destroyed by pulping, burning, shredding, or erasure or destruction of magnet media".

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "The Associate Director for Security and Counterintelligence, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000".

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755-6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN) and mailing address".

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755-6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN) and mailing address".

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The NSA/CSS rules for contesting contents and appealing initial determinations are published at 32 CFR part 322 or may be obtained by written request addressed to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755-6248".

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Data provided by individual during employment and security processing; data provided by investigative service processing individual's background; data provided by references, educational institutions and other sources named by individual or developed during background investigation; unsolicited data from any source where relevant; data provided by the Office of Personnel Management and other agencies, departments, and governmental elements involved in the conduct of National Agency checks and Local Agency checks; the Federal Bureau of Investigation; data developed by appropriate governmental elements in the course of a national security investigation or investigation into alleged violations of criminal statutes related to unauthorized disclosure of intelligence or protection of intelligence sources and methods; documents furnished by agency element sponsoring individual for access to specific classified information".

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GNSA 10

SYSTEM NAME:

NSA/CSS Personnel Security File.

SYSTEM LOCATION:

National Security Agency/Central Security Service, 9800 Savage Road, Ft. George G. Meade, MD 20755-6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment with NSA/CSS; civilian employees;

personnel under contract; military assignees; members of advisory groups; consultants; experts; other military personnel; Federal employees; employees of contractors, and employees of services; other individuals who require access to NSA/CSS facilities or information and individuals who were formerly affiliated with NSA/CSS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relevant to access classified information, assignment and reassignment, foreign official and unofficial travel, access to NSA/CSS spaces or facilities, access to NSA's Intranet, and other personnel actions where security represents a relevant and valid element of the determination. Records may consist of name, social security number, home address, home phone number, security file number, statement of personal history, photograph, fingerprint data, agreements with respect to specific security processing procedures, security processing forms and records, investigative and polygraph reports, appeal records, incident and complaint reports, unsolicited information when relevant, reports by domestic law enforcement agencies when relevant, clearance data, access authorization, foreign travel data, security secrecy agreements, and financial data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

50 U.S.C. Sections 831-835, Personnel Security Procedures in the National Security Agency; E.O.10450, as amended, Security Requirements for Government Employment; E.O.10865, as amended, Safeguarding Classified Information Within Industry; E.O.12968, Access to Classified Information; and E.O 9397 (SSN).

PURPOSE(S):

The records are used for the purpose of determining suitability, eligibility, or qualification for civil employment, Federal contracts, or access to classified information and/or NSA/CSS spaces and facilities; to determine access to NSA's Intranet, to determine and ensure continued eligibility for access to classified information; to record adjudicative actions and determinations; to record processing steps taken; to document due process actions taken; to make determinations on official and unofficial foreign travel; to make determinations on assignment and reassignment and other actions where security represents a relevant and valid element of the determination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To agencies outside DoD, to include but not limited to other clearance holder agencies or agencies charged with making clearance determinations, government agencies involved with national security or clearance investigations, other government agencies and private contractors requiring clearance status information and authorized to receive same; the Director of National Intelligence and his General Counsel in the event of litigation or anticipated litigation with respect to unauthorized disclosures of classified intelligence or intelligence sources and methods and related court actions; judicial branch elements pursuant to specific court orders or litigation.

In addition, other government agencies or private contractors may be informed of information developed by NSA which bears on an assignee's or affiliate's status at NSA with regard to security considerations.

To local law enforcement (county and State) and other Federal, State, or local agencies or departments for hiring purposes.

To any entity or individual under contract with NSA/CSS for the purpose of providing security-related services.

To any party, counsel, representative, and/or witness in any legal proceeding, where pertinent, to which DoD is a party before a court or administrative body (including, but not limited to, the Equal Employment Opportunity Commission and Merit Systems Protection Board).

The DoD "Blanket Routine Uses" set forth at the beginning of the NSA/CSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By name, Social Security Number (SNN), or unique Security File number.

SAFEGUARDS:

Buildings are secured by a series of guarded pedestrian gates and

checkpoints. Access to facilities is limited to security-cleared personnel and escorted visitors only. Within the facilities themselves, access to paper and computer printouts is controlled by limited-access facilities and lockable containers. Access to electronic means is limited and controlled by computer password protection.

RETENTION AND DISPOSAL:

Records containing no derogatory information are reviewed for retention 10 years after date of last action then destroyed; records containing derogatory information are reviewed for retention 25 years after last action then destroyed.

Records are destroyed by pulping, burning, shredding, or erasure or destruction of magnet media.

SYSTEM MANAGER(S) AND ADDRESS:

The Associate Director for Security and Counterintelligence, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755-6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN) and mailing address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755-6248.

Written inquiries should contain the individual's full name, Social Security Number (SSN) and mailing address.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations are published at 32 CFR part 322 or may be obtained by written request addressed to the National Security Agency/Central Security Service, Freedom of Information Act/Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755-6248.

RECORD SOURCE CATEGORIES:

Data provided by individual during employment and security processing;

data provided by investigative service processing individual's background; data provided by references, educational institutions and other sources named by individual or developed during background investigation; unsolicited data from any source where relevant; data provided by the Office of Personnel Management and other agencies, departments, and governmental elements involved in the conduct of National Agency checks and Local Agency checks; the Federal Bureau of Investigation; data developed by appropriate governmental elements in the course of a national security investigation or investigation into alleged violations of criminal statutes related to unauthorized disclosure of intelligence or protection of intelligence sources and methods; documents furnished by agency element sponsoring individual for access to specific classified information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Individual records in this file may be exempt pursuant to 5 U.S.C. 552a (k)(2), (k)(5), and (k)(6), as applicable.

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identity of a confidential source. *Note:* When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 322. For additional information contact the system manager.

[FR Doc. E9-14097 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Termination of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Termination of Federal Advisory Committee.

SUMMARY: Under the provisions of Section 596 of Public Law 110-417, the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.65, the Department of Defense gives notice that it is terminating the Board of Advisors to the President Naval War College.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703-601-6128.

Dated: June 4, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9-14101 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF-2009-0033]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a System of Records.

SUMMARY: The Department of the Air Force proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The proposed action will be effective on July 16, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of

Warfighting Integration and Chief Information Officer, SAF/XCPPI, 1800 Air Force Pentagon, Washington, DC 20330-1800.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Swilley at (703) 696-6489.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, were submitted on June 4, 2009 to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996, (February 20, 1996, 61 FR 6427).

Dated: June 4, 2009.

Morgan E. Frazier,

Alternate Federal Register Liaison Officer, Department of Defense.

FO36 AFRC B

SYSTEM NAME:

Air Force Recruiting Information Support System—Reserve Records.

SYSTEM LOCATION:

Headquarters, Air Force Reserve Command, Recruiting Service, 1000 Corporate Pointe, Warner Robins, GA 31088-3430.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective Air Force enlisted and officer personnel entering Active, Guard and Reserve duty and Air Force enlisted personnel on recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), scores on all qualification tests, mailing address, educational level and data, prior service history, age, gender, race, marital status, number of dependents, physical job qualifications, job preferences, jobs offered and accepted, recruiting, processing locations, dates of processing, and other personal data relevant to the recruitment process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, U.S.C. Subtitle E Sections 10202, 10205, 10174 and 10110, Air Force Policy Directive 36-20 para 2.1, 2.3, and Air Force Instruction 36-2115 para 1.1.2.4 through 1.1.2.4.5 and E.O. 9397 (SSN).

PURPOSE(S):

The system will provide field recruiters an automated tool to process prospective Guard and Reserve applicants; evaluate recruiter's and job counselor's activity and efficiency levels; and analyze pre-enlistment job cancellations for common reasons.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C. 552A(b) of the Privacy Act of 1974, these records contained therein may be specifically disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The "DoD Blanket Routine Uses" published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed only by person(s) responsible with a need to know for servicing the system of record in performance of their official duties and those authorized personnel who are properly screened and cleared. Access to the system utilizes encryption software. Records in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Hard copy enlistment processing records, recruiter personnel records, and personal interview records (PIR) are archived and later shredded after no longer needed. Electronic records are archived indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Air Force Reserve Command Recruiting, 1000 Corporate Pointe, Warner Robins, GA 31088-3430.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Operations Division, Air Force Reserve Command Recruiting, 1000 Corporate Pointe, Warner Robins, GA 31088-3430.

REQUEST MUST CONTAIN FULL NAME, SOCIAL SECURITY NUMBER (SSN), AND CURRENT MAILING ADDRESS.**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Operations Division, Air Force Reserve Command Recruiting, 1000 Corporate Pointe, Warner Robins, GA 31088-3430.

Request must contain full name, Social Security Number (SSN), and current mailing address.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Instruction 33-332, Privacy Act Program, 32 CFR Part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-14094 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Department of the Air Force**

[Docket ID: USAF-2009-0032]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a System of Records.

SUMMARY: The Department of the Air Force is proposing to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on July 16, 2009 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Officer, Office of Warfighting Integration and Chief Information Officer, SAF/XCPPI, 1800 Air Force Pentagon, Washington, DC 20330-1800.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Swilley at (703) 696-6172.

SUPPLEMENTARY INFORMATION: The Department of the Air Force notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended,

have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, will be submitted on June 3, 2009, to the House Committee on Government Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 4, 2009.

Morgan E. Frazier,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F010 AFMC P**SYSTEM NAME:**

Logistics Module (LOGMOD).

SYSTEM LOCATION:

Department of the Air Force, Force Projection Division, 554 ELSG, 201 E Moore Drive, Bldg 856, Room 154 Maxwell AFB-Gunter Annex, AL 36114-3004, Telephone: 334-416-5771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force Active duty, Reserve, Guard, and DoD civilians.

CATEGORIES OF RECORDS IN THE SYSTEM:

Full name, Social Security Number (SSN), address and phone, Primary Air Force Specialty Code (PAFSC), Control Air Force Specialty Code (CAFSC), Deployment Availability Codes (DAV), Unit Type Codes (UTC), organizational information, reservation identification code, individual line number, equipment cargo details.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; as implemented by Air Force Instruction 10-403, Deployment Planning and Execution, and E.O. 9397 (SSN).

PURPOSE:

A deployment system used to ensure units are able to schedule and meet Air Force deployment taskings for personnel and cargo needs worldwide. Also allows for storage and daily maintenance of cargo packages.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C.

552A(b) of the Privacy Act of 1974, these records contained therein may be specifically disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The "DoD Blanket Routine Uses" published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Electronic storage media and paper records.

RETRIEVABILITY:

Records are retrievable by either first and/or last name, Social Security Number (SSN), Unit Type Codes (UTC) or line number of the individual.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties, and by authorized personnel who are properly screened and cleared for need-to-know. All access is based upon role-based logons using the individuals Common Access Card (CAC) to login to the system. User's level of access is restricted by their role within the organization.

RETENTION AND DISPOSAL:

Deployment data is actively maintained for a period of time that is determined by the Installation Deployment Office at each base and then destroyed when no longer needed by shredding, degaussing, erasing or purging.

SYSTEM MANAGER(S) AND ADDRESS:

Force Projection Division, 554th Electronic Systems Group, 201 East Moore Drive, Building 856, Room 154, Maxwell AFB, Gunter Annex, Alabama 36114-3004.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to 554th Electronic Systems Group, 201 East Moore Drive, Building 856, Room 154, Maxwell AFB, Gunter Annex, Alabama 36114-3004.

Written requests should contain individual's name, Social Security Number (SSN), reservation identification code, and movement channel.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains

information on themselves should address inquiries to 554th Electronic Systems Group, 201 East Moore Drive, Building 856, Room 154, Maxwell AFB, Gunter Annex, Alabama 36114-3004.

Written requests should contain individual's name, Social Security Number (SSN), reservation identification code, and movement channel.

CONTESTING RECORD PROCEDURES:

The Air Force rules for access to records, and for contesting and appealing initial agency determinations by the individual concerned are published in Air Force Instruction 33-332, Privacy Act Program, 32 CFR Part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Deliberate and Crisis Action Planning and Execution Segments (DCAPES), and cargo records created by users of the system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E9-14125 Filed 6-15-09; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Rehabilitation Training—Rehabilitation Continuing Education Programs (RCEP)—Institute on Rehabilitation Issues (IRI); Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.264C.

Dates:

Applications Available: June 16, 2009.

Deadline for Transmittal of Applications: July 31, 2009.

Deadline for Intergovernmental Review: September 29, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Rehabilitation Continuing Education Programs—

(1) Train newly employed State agency staff at the administrative, supervisory, professional, paraprofessional, or clerical levels in order to develop needed skills for effective agency performance;

(2) Provide training opportunities for experienced State agency personnel at all levels of State agency practice to upgrade their skills and to develop mastery of new program developments

dealing with significant issues, priorities, and legislative thrusts of the State and Federal vocational rehabilitation (VR) program; and

(3) Develop and conduct training programs for staff of—

(a) Private rehabilitation agencies and facilities that cooperate with State VR units in providing VR and other rehabilitation services;

(b) Centers for independent living; and

(c) Client assistance programs.

Priorities: These priorities are from the notice of final priorities for this program, published in the **Federal Register** on October 23, 2003 (68 FR 60828).

Absolute Priorities: For FY 2009 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet both of these priorities.

Note: Previously the Rehabilitation Services Administration (RSA) has funded multiple grants per fiscal year under these priorities. For FY 2009, we will fund only one grant under these priorities. While RSA had made multiple awards to carry out IRI activities in the past, we have decided to make only one IRI award for FY 2009 to improve the efficiency of the monitoring process and the quality of the products produced under this competition. Thus, all references to projects should be interpreted as meaning one project and that project will be responsible for two Primary Study Groups and the National Forum.

These priorities are:

Priority 1—Leadership of IRI Primary Study Group (PSG)

This priority funds projects to lead a PSG on a topic selected by the IRI Planning Committee. Projects must demonstrate the ability to provide leadership to members of the PSG that results in the production of a high quality document in the assigned topic area. Projects must ensure that documents are relevant to the public rehabilitation system and to the work of VR counselors and accurately interpret and integrate the current body of knowledge of the selected topic contained in published professional research and demonstrations.

Specifically, projects must demonstrate an in-depth knowledge of and understanding of relevant current and emerging issues in the public rehabilitation system, the public VR program, and the continuing education needs of VR personnel and related professionals. Projects must have the demonstrated ability to direct a

rehabilitation research investigation in cooperation with a variety of experienced participants.

Projects must provide leadership to all phases of the IRI process, including assisting PSG members to define the areas of focus for the designated topic, to identify and address the continuing education needs of personnel of the public rehabilitation system, and to plan and write the project document. Projects must ensure that the group product meets the expectation of the IRI Planning Committee in terms of content areas and depth of review. At the conclusion of the National IRI Forum, projects must submit the final version of the IRI document to RSA for approval. Projects must distribute the approved document to State VR agencies and to others in an accessible format on request for use in staff development, training, and service planning.

Projects must include a plan to meet the communication, coordination, logistical, and budgetary requirements necessary to conduct at least three in person meetings of the PSG, one of which must take place at the National IRI Forum in Washington, DC, at the end of the project year.

Priority 2—Leadership of the National IRI Forum

This priority funds projects to plan and to lead the annual National IRI Forum of PSG members and other stakeholders in each year of the project period. Projects must demonstrate in-depth knowledge of current, relevant issues in the public rehabilitation system and of methods to facilitate professional development and continuing education activities. Project staff, in cooperation with the IRI Planning Committee, must identify and solicit key stakeholders to provide input and feedback on selected IRI topics, and facilitate discussion and input sessions of diverse individuals with a wide variety of backgrounds so that each of the two IRI PSGs receives feedback on its draft document in a collaborative and positive manner.

Projects must provide a detailed plan for all aspects of the planning and coordination of the meeting, including, but not limited to, facilitation of document feedback sessions, site planning, coordination of accommodations and travel for PSG members funded by the project, coordination of accommodations requested by other participants, and the provision of on-site support services, including the provision of reasonable accommodations upon request. Projects must include a description of a process and methods that will result in high

quality input on the IRI documents presented for review.

Program Authority: 29 U.S.C. 772.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for this program in 34 CFR parts 385 and 389.

Note: The regulations in 34 CFR part 79 apply to all applicants except Federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds: \$190,000.

Maximum Award: We will reject any application that proposes a budget exceeding \$190,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a Notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. **Eligible Applicants:** States and public or nonprofit agencies and organizations, including Indian Tribes and institutions of higher education.

2. **Cost Sharing or Matching:** Cost sharing of at least 10 percent of the total cost of the project is required of grantees under the RCEP (34 CFR 389.40).

IV. Application and Submission Information

1. Address To Request Application Package

You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: <http://www.ed.gov/fund/grant/apply/grantapps/index.html>. To obtain a copy from ED Pubs, write, fax, or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794-1398. Telephone, toll free: 1-877-433-7827. Fax: (301) 470-1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1-877-576-7734.

You can contact ED Pubs at its Web site, also: <http://www.ed.gov/pubs/edpubs.html> or at its e-mail address: edpubs@inet.ed.gov.

If you request an application from ED Pubs, be sure to identify this program as follows: CFDA number 84.264C.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. Content and Form of Application Submission

Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative [Part III] to the equivalent of no more than 45 pages, using the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.

- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (character per inch).

- *Use one of the following fonts:* Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section [Part III].

We will reject your application if you exceed the page limit or if you apply other standards and exceed the equivalent of the page limit.

3. Submission Dates and Times

Applications Available: June 16, 2009.

Deadline for Transmittal of Applications: July 31, 2009.

Applications for grants under this competition must be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants site. For information (including dates and times) about how to submit

your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6., *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in Section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: September 29, 2009.

4. Intergovernmental Review

This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. Funding Restrictions

We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. Other Submission Requirements

Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the Rehabilitation Continuing Education Programs competition—CFDA Number 84.264C must be submitted electronically using e-Application, accessible through the Department's e-Grants Web site at: <http://e-grants.ed.gov>.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding

calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. E-Application will not accept an application for this competition after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

- The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site.

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format. You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

- You must attach any narrative sections of your application as files in a .DOC (document), .RTF (Rich Text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.

- Your electronic application must comply with any page limit requirements described in this notice.

- Prior to submitting your electronic application, you may wish to print a copy of it for your records.

- After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

- Within three working days after submitting your electronic application, fax a signed copy of the SF 424 to the Application Control Center after following these steps:

- Print SF 424 from e-Application.

- The applicant's Authorizing Representative must sign this form.

- Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

- Fax the signed SF 424 to the Application Control Center at (202) 245-6272.

- We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application Unavailability:

If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

- You are a registered user of e-Application and you have initiated an electronic application for this competition; and

- (a) E-Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

- (b) E-Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1-888-336-8930. If e-Application is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of e-Application.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your

application in paper format, if you are unable to submit an application through e-Application because—

- You do not have access to the Internet; or

- You do not have the capacity to upload large documents to e-Application; and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Edwin W. Powell, U.S. Department of Education, 400 Maryland Avenue, SW., room 5038, Potomac Center Plaza (PCP), Washington, DC 20202-4260. FAX: (202) 245-7505.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.264C), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202-4260.

You must show proof of mailing consisting of one of the following:

- A legibly dated U.S. Postal Service postmark.

- A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

- A dated shipping label, invoice, or receipt from a commercial carrier.

- Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not

accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.264C), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202-4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245-6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and 34 CFR 389.30(a).

VI. Award Administration Information

1. Award Notices

If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. Administrative and National Policy Requirements

We identify administrative and national policy requirements in the

application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. Reporting

At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to <http://www.ed.gov/fund/grant/apply/appforms/appforms.html>.

4. Performance Measures

The Government Performance and Results Act (GPRA) of 1993 directs Federal departments and agencies to improve the effectiveness of their programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The goal of RSA's RCEP Institute on Rehabilitation Issues program is to synthesize and disseminate information about relevant topics in the form of publications that are used in educating VR professionals and as technical assistance resources for other stakeholders in the VR program. In order to measure the performance of this project, we require the grantee to collect data on the number of IRI documents disseminated; the types of individuals requesting the documents, e.g., State agencies, training programs; the opinion of State VR directors and training program directors regarding the quality of the IRI publications; and the number of citations of IRI publications in other literature. The grantee is required to report this information annually to RSA using the RSA Grantee Reporting Form, OMB number 1820-0617, an electronic reporting system. This form allows RSA to measure results against the goals of the project. Performance will be measured by assessment of (a) the number of State VR directors and training grant project directors who deem the IRI products to be of high quality and useful to the field and (b)

the number of citations of IRI publications in other literature.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT:

Edwin W. Powell, U.S. Department of Education, Rehabilitation Services Administration, 400 Maryland Avenue, SW., room 5038, PCP, Washington, DC 20202-2800. Telephone: (202) 245-7505 or by e-mail: Edwin.Powell@ed.gov.

If you use a TDD, call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202-2550. Telephone: (202) 245-7363. If you use a TDD, call the FRS, toll free, at 1-800-877-8339.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

Delegation of Authority: The Secretary of Education has delegated authority to Andrew J. Pepin, Executive Administrator for the Office of Special Education and Rehabilitative Services, to perform the functions of the Assistant Secretary for Special Education and Rehabilitative Services.

Dated: June 11, 2009.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. E9-14142 Filed 6-15-09; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY**Unconventional Resources
Technology Advisory Committee**

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Unconventional Resources Technology Advisory Committee. Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) requires that notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, July 14, 2009, 1 p.m. to 5 p.m. (EST).

ADDRESSES: TMS, Inc., 955 L'Enfant Plaza North, SW., Suite 1500, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Elena Melchert, U.S. Department of Energy, Office of Oil and Natural Gas, Washington, DC 20585. Phone: 202-586-5600.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the Unconventional Resources Technology Advisory Committee is to provide advice on development and implementation of programs related to onshore unconventional natural gas and other petroleum resources to the Secretary of Energy; and provide comments and recommendations and priorities for the Department of Energy Annual Plan per requirements of the Energy Policy Act of 2005, Title IX, Subtitle J, Section 999D.

Tentative Agenda

12:30 p.m. Registration.

1 p.m.-4:45 p.m. Welcome and

Introductions, Opening Remarks, Presentation on Status of DOE Oil and Natural Gas Program, Section 999 Planning Process, Status of the Unconventional Natural Gas and Other Petroleum Resources Program, Overview of Response to Section 999D Advisory Committee Recommendations, and Facilitated Discussions.

4:45 p.m.-5 p.m. Public Comments.
5 p.m. Adjourn.

Public Participation: The meeting is open to the public. The Designated Federal Officer and the Chairman of the Committee will lead the meeting for the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Elena Melchert at the address or telephone

number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 5 minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room, Room 1G-033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on June 10, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9-14109 Filed 6-15-09; 8:45 am]

BILLING CODE 6450-01-P

**ENVIRONMENTAL PROTECTION
AGENCY**

[FRL-8919-4]

**Science Advisory Board Staff Office;
Notification of an Upcoming Closed
Meeting of the Science Advisory
Board's Scientific and Technological
Achievement Awards Committee**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Science Advisory Board (SAB) Staff Office announces a closed meeting of the SAB's Scientific and Technological Achievement Awards (STAA) Committee to recommend to the Administrator the recipients of the Agency's 2009 Scientific and Technological Achievement Awards.

DATES: The meeting dates are Monday and Tuesday, August 17 and 18, 2009 from 9 a.m. to 5 p.m. (Eastern Standard Time), and Wednesday, August 19, 2009, from 8:30 a.m. to 1 p.m. (Eastern Standard Time).

ADDRESSES: The closed meeting will be held at the U.S. EPA Science Advisory Board Staff Office Conference Room, Third Floor, Suite 3700, 1025 F Street NW., Suite 3700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information regarding this announcement may contact Mr. Edward Hanlon, Designated Federal Officer, by telephone: (202) 343-9946 or e-mail at hanlon.edward@epa.gov. The SAB

mailing address is: U.S. EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460. General information about the SAB as well as any updates concerning the meeting announced in this notice may be found in the SAB Web site at <http://www.epa.gov/sab>.

SUPPLEMENTARY INFORMATION:

Summary: Pursuant to Section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2, and section (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6), EPA has determined that the meeting will be closed to the public. The purpose of the meeting is for the SAB to recommend to the Administrator the recipients of the Agency's 2009 Scientific and Technological Achievement Awards. These awards are established to honor and recognize EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, as exhibited in publication of their results in peer reviewed journals. This meeting is closed to the public because it is concerned with selecting which employees are deserving of awards, a personnel matter with privacy concerns, which is exempt from public disclosure pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2, and section (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6). In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review.

Dated: June 9, 2009.

Lisa P. Jackson,

Administrator.

[FR Doc. E9-14116 Filed 6-15-09; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL MINE SAFETY AND HEALTH
REVIEW COMMISSION****Sunshine Act; Notice of Meetings**

June 10, 2009.

TIME AND DATE: 10 a.m., Thursday, June 25, 2009.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Secretary of Labor v. Musser Engineering, Inc., and PBS Coals, Inc.*, Docket Nos. PENN 2004-152 and PENN 2004-158. (Issues include whether

Musser and PBS violated 29 CFR 75.1200 when the operator of the Quecreek mine failed to maintain an accurate mine map showing the boundaries of adjacent abandoned mine workings, whether the alleged violations were "significant and substantial," whether the companies were guilty of gross negligence, and whether the Administrative Law Judge properly increased the proposed penalty amounts.)

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 434-9950 / (202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. E9-14284 Filed 6-12-09; 4:15 pm]

BILLING CODE P

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 July 10, 2009.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106-2204:

1. *NewStar Holdco*, Boston, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Southern Commerce Bank, National Association, Tampa, Florida.

In connection with this application, Applicant also has applied to acquire NewStar Financial, Inc., NewStar Asset Management, LLC, and NewStar Credit Opportunities Fund, all of Boston, Massachusetts, and engage in commercial finance activities, and in providing asset management services, pursuant to sections 225.28(b)(1), (b)(2), and (b)(7) of Regulation Y.

B. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *Army and Air Force Mutual Aid Association*, Ft. Myer, Virginia, and Armed Forces Bank Holding Company, Reston, Virginia; to become bank holding companies by acquiring 100 percent of the voting shares of Armed Forces Bank, National Association, Fort Leavenworth, Kansas, and Armed Forces Bank of California, National Association, San Diego, California.

In addition, Applicants also have applied to engage in extending credit and servicing loans activities, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, June 11, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-14130 Filed 6-15-09; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 p.m., Monday, June 22, 2009.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments,

reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT:

Michelle Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members at 202-452-2955.

SUPPLEMENTARY INFORMATION: You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Board of Governors of the Federal Reserve System, June 12, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9-14257 Filed 6-12-09; 4:15 pm]

BILLING CODE 6210-01-S

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier
Ocean Transportation Intermediary
Applicants

I.M.A. Limited dba Miracle Brokers International, 207 Sparkys Drive, George Town, Grand Cayman, KY1-1007 Cayman Islands, *Officer:* Irma M. Arch, Director (Qualifying Individual)
World Wide Cargo Partners, LLC, 7901 Stoneridge Drive, Ste. 117, Pleasanton, CA 94588, *Officer:* Joyce E. Behringer, Manager (Qualifying Individual)

Non-Vessel-Operating Common Carrier
and Ocean Freight Forwarder
Transportation Intermediary
Applicants

Transmodal Corporation, 48 South Franklin Turnpike, Suite 202, Ramsey, NJ 07446, *Officer:* Max Angel Kantzer, President (Qualifying Individual)
 Scrap Freight Inc., 801 S. Garfield Ave., #101, Alhambra, CA 91803, *Officer:* Stephen Leng, President (Qualifying Individual)
 Magic Transport, Inc., PR-2 KM 19.5 Interior BO. Candelaria, Pepsi Industrial Park, TOA Baja PR 00949, *Officers:* Jorge Mangual, Asst. Secretary (Qualifying Individual) Carlos Padiar, President
 Interlogistix, LLC, 5075 Paloma Street, Brighton, CO 80601, *Officer:* Brad Schmeh (Qualifying Individual)
 Guempel Lynnwood Corporation dba GalaxSea Freight Forwarding, 4828

45th Pl., SW, Lynnwood, WA 98087, *Officer:* Terrina R. Guempel, President (Qualifying Individual)
 American Global Logistics LLC, 53 Perimeter Center E., #450, Atlanta, GA 30346, *Officer:* Otto J. Valdes, Managing Member (Qualifying Individual)
 Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants
 Upakweship, Inc., 1629 Folly Rd., Charleston, SC 29412, *Officer:* Mark A. Nash, President (Qualifying Individual)
 Dated: June 11, 2009.
Tanga S. FitzGibbon,
Assistant Secretary.
 [FR Doc. E9-14161 Filed 6-15-09; 8:45 am]
BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION
Ocean Transportation Intermediary License Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515.

License No.	Name/address	Date reissued
019278N	Nelcon Cargo Corp., 7270 NW 35th Terrace, #102, Miami, FL 33122	March 29, 2009.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.
 [FR Doc. E9-14158 Filed 6-15-09; 8:45 am]
BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION
Ocean Transportation Intermediary License; Rescission of Order of Revocation

Notice is hereby given that the Order revoking the following license is being rescinded by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License Number: 020700F.
Name: Allen & Sally Associates, LLC dba USA Customs Brokers & Freight Forwarders.
Address: 7094 Peachtree Industrial Blvd., Ste. 270-1, Norcross, GA 30071.
Order Published: FR: 05/13/09 (Volume 74, No. 91 Pg. 22551).

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.
 [FR Doc. E9-14159 Filed 6-15-09; 8:45 am]
BILLING CODE P

FEDERAL MARITIME COMMISSION
Ocean Transportation Intermediary License Revocation

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary license has been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR Part 515, effective on the corresponding date shown below:

License Number: 020488N.
Name: Cycle Logical Supply Chain Solutions, LLC.
Address: 8014 Cumming Hwy., Ste 403-362, Canton, GA 30115.
Date Revoked: May 17, 2009.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.
 [FR Doc. E9-14160 Filed 6-15-09; 8:45 am]
BILLING CODE 6730-01-P

FEDERAL TRADE COMMISSION

[File No. 082 3186]

Kmart Corporation; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.
ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 9, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “Kmart Corp., File No. 082 3186” to facilitate the organization of comments. Please note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtm>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual’s Social Security Number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secret or any commercial or financial information which is obtained

from any person and which is privileged or confidential. . . .” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).¹

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (<http://secure.commentworks.com/ftc-KmartCorp>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (<http://secure.commentworks.com/ftc-KmartCorp>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at <http://www.ftc.gov/> to read the Notice and the news release describing it.

A comment filed in paper form should include the “Kmart Corp., File No. 082 3186” reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act (“FTC Act”) and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be

¹ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

FOR FURTHER INFORMATION CONTACT:

Michael J. Davis, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, (202) 326-2458.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 9, 2009), on the World Wide Web, at (<http://www.ftc.gov/os/actions.shtml>). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from Kmart Corporation, a corporation (“respondent”).

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the

agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter involves Kmart’s marketing and sale of American Fare paper plates with shrink-wrap packaging that prominently states “biodegradable” without qualification on the front of the wrapper. According to the FTC complaint, respondent represented that American Fare paper plates will completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time after customary disposal. The complaint alleges respondent’s biodegradable claim is false because a substantial majority of total household waste is disposed of either in landfills, incinerators, or recycling facilities and these customary disposal methods do not present conditions that would allow for the paper plates to completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time. The complaint further alleges that respondent failed to have substantiation for its biodegradable claim. The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future.

Part I.A of the proposed order prohibits respondent from making a representation that certain of its products are degradable unless the representation is true, not misleading, and substantiated by competent and reliable scientific evidence. Part I.B prohibits respondent from making any other environmental benefit claim about such products, unless at the time the representation is made, it is truthful and not misleading, and substantiated by competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence.

Parts II through V require respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain of their personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission and respond to other requests from FTC staff. Part VI provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. E9-14106 Filed 6-15-09; 8:45 am]

BILLING CODE 6750-01-S

FEDERAL TRADE COMMISSION

[File No. 082 3188]

Tender Corporation; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 9, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “Tender Corp., File No. 082 3188” to facilitate the organization of comments. Please note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtml>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual’s Social Security Number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . .” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled

“Confidential,” and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).¹

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (<http://secure.commentworks.com/ftc-TenderCorp>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (<http://secure.commentworks.com/ftc-TenderCorp>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it. You may also visit the FTC website at <http://www.ftc.gov/> to read the Notice and the news release describing it.

A comment filed in paper form should include the “Tender Corp., File No. 082 3188” reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act (“FTC Act”) and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before

¹ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

FOR FURTHER INFORMATION CONTACT:

Michael J. Davis, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, (202) 326-2458.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 9, 2009), on the World Wide Web, at (<http://www.ftc.gov/os/actions.shtml>). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from Tender Corporation, a corporation (“respondent”).

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter involves Tender’s marketing and sale of Fresh Bath brand moist hand and body wipes, packaged in plastic that prominently states “bio-

degradeable" without qualification on the front of the package. Tender's website and promotional materials also made the claim. According to the FTC complaint, respondent represented that Fresh Bath Wipes and Fresh Bath Travel Wipes and their packages will completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time after customary disposal. The complaint alleges respondent's biodegradable claim is false because a substantial majority of total household waste is disposed of either in landfills, incinerators, or recycling facilities and these customary disposal methods do not present conditions that would allow for the wipes and their packaging to completely break down and return to nature, *i.e.*, decompose into elements found in nature, within a reasonably short period of time. The complaint further alleges that respondent failed to have substantiation for the biodegradable claim. The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future.

Part I.A of the proposed order prohibits respondent from making a representation that certain of its products are degradable unless the representation is true, not misleading, and substantiated by competent and reliable scientific evidence. Part I.B prohibits respondent from making any other environmental benefit claim about such products, unless at the time the representation is made, it is truthful and not misleading, and substantiated by competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence.

Part II of the proposed order requires respondent to specify whether its degradability claim applies to the product, package, or components of either.

Parts III through VI require respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain of their personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission and respond to other requests from FTC staff. Part VII provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. E9-14107 Filed 6-15-09; 8:45 am]

BILLING CODE: 6750-01-S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0053]

Federal Acquisition Regulation; Information Collection; Permits, Authorities, or Franchises Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding the reinstatement of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR), Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Permits, Authorities, or Franchises Certification.

Public comments are particularly invited on: Whether this collection of information is necessary; 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; ways to enhance the quality, utility, and clarity of the information to be collected; 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.

DATES: Submit comments on or before August 17, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000-0053, Permits,

Authorities, or Franchises Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Jeritta Parnell, Procurement Analyst, Contract Policy Division, GSA, (202) 501-4082.

A. Purpose

This certification and copies of authorizations are needed to determine that the offeror has obtained all authorizations, permits, etc., required in connection with transporting the material involved. The contracting officer reviews the certification and any documents requested to ensure that the offeror has complied with all regulatory requirements and has obtained any permits, licenses, etc., that are needed.

B. Annual Reporting Burden

Respondents: *1,106.*

Responses Per Respondent: *3.*

Annual Responses: *3,318.*

Hours Per Response: *.094.*

Total Burden Hours: *312.*

Obtaining Copies of Proposals:

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street NW., Room 4041, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0053, Permits, Authorities, or Franchises Certification, in all correspondence.

Dated: June 9, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9-14104 Filed 6-15-09; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0082]

Federal Acquisition Regulation; Information Collection; Economic Purchase Quantity—Supplies

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of reinstatement request for an information collection requirement regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal

Acquisition Regulation, Regulatory Secretariat (VPR) will be submitting to the Office of Management and Budget (OMB) a request to reinstate a previously approved information collection requirement concerning Economic Purchase Quantity—Supplies.

Public comments are particularly invited on: Whether this collection of information is necessary; 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; ways to enhance the quality, utility, and clarity of the information to be collected; 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.

DATES: Submit comments on or before August 17, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000-0082, Economic Purchase Quantity—Supplies, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Lori Sakalos, Procurement Analyst, Contract Policy Division, GSA, (202) 208-0498.

SUPPLEMENTARY INFORMATION:

A. Purpose

The provision at 52.207-4, Economic Purchase Quantity—Supplies, invites offerors to state an opinion on whether the quantity of supplies on which bids, proposals, or quotes are requested in solicitations is economically advantageous to the Government. Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to (1) recommend an economic purchase quantity, showing a recommended unit and total price, and (2) identify the different quantity points where significant price breaks occur. This information is required by Public Law 98-577 and Public Law 98-525.

B. Annual Reporting Burden

Respondents: 1,524.

Responses per Respondent: 25.

Annual Responses: 38,100.

Hours per Response: .83.

Total Burden Hours: 31,623.

Obtaining Copies of Proposals:

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC, 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0082, Economic Purchase Quantity—Supplies, in all correspondence.

Dated: June 9, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9-14105 Filed 6-15-09; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2009-N-0261]

Agency Emergency Processing Under Office of Management and Budget Review; Reporting and Recordkeeping Requirements for Reportable Food Registry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). This notice solicits comments on the proposed collection of information associated with the draft guidance document entitled “Questions and Answers Regarding the Reportable Food Registry as Established by the Food and Drug Administration Amendments Act of 2007.” The draft guidance, when finalized, will assist the industry in complying with the Reportable Food Registry requirements prescribed by the Food and Drug Administration Amendments Act of 2007 (FDAAA).

DATES: Fax written comments on the collection of information by July 16, 2009. FDA is requesting approval of this emergency processing by August 17, 2009.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-6974. All comments should be identified with the docket number

found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management (HFA-710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-796-3794.

SUPPLEMENTARY INFORMATION: FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the PRA (44 U.S.C. 3507(j)) and 5 CFR 1320.13. On September 27, 2007, the President signed FDAAA into law (Public Law 110-85). Section 1005 of FDAAA amends the Federal Food, Drug, and Cosmetic Act (the act) by creating a new section 417 (21 U.S.C. 350f), among other things. Section 417 of the act requires the Secretary of Health and Human Services to establish, within FDA, a Reportable Food Registry (the Registry); the Registry is to be established not later than 1 year after the date of enactment (i.e., by September 27, 2008).

To further the development of the Registry, section 417 of the act requires FDA to establish, also within 1 year after the date of enactment (i.e., by September 27, 2008), an electronic portal (the Reportable Food electronic portal) by which instances of reportable food must be submitted to FDA by responsible parties and may be submitted by public health officials.

FDA made the decision that the most efficient and cost effective means to implement the requirements of section 417 of the act relating to the Registry was to utilize the business enterprise system currently under development within the agency: The MedWatch^{Plus} Portal. This would permit the agency to establish an electronic portal through which instances of reportable food may be submitted to the agency. However, FDA recognized that the MedWatch^{Plus} Portal would not be implemented in time to meet the September 27, 2008, deadline for establishing the Reportable Food electronic portal and therefore announced that it was delaying its implementation until spring 2009 (73 FR 30405; May 27, 2008).

The agency now expects the system to be operational on September 8, 2009.

Section 1005(f) of FDAAA required FDA to issue guidance to industry about submitting reports through the electronic portal of instances of reportable food and providing notifications to other persons in the supply chain of such article of food. In a notice published in the **Federal Register** of June 11, 2009, FDA announced the availability of the draft guidance document entitled “Questions

and Answers Regarding the Reportable Food Registry as Established by the Food and Drug Administration Amendments Act of 2007.”

Because this guidance involves a collection of information, the PRA is implicated. However, the delay associated with normal PRA clearance procedures can reasonably be anticipated to prevent the finalization of the agency’s guidance document in advance of the launch of the portal on September 8, 2009. As a result, given the need for immediate action, FDA requests emergency processing of this collection of information request.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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, when appropriate, and other forms of information technology.

Title: Reporting and Recordkeeping Requirements for Reportable Food Registry

Description of Respondents: Mandatory respondents to this collection of information are the owners, operators, or agents in charge of a domestic or foreign facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States (“responsible parties”) who have information on a reportable food. Voluntary respondents to this collection of information are Federal, State, and local public health officials who have information on a reportable food.

The draft guidance restates the requirements of section 417 of the act and presents FDA’s recommendations for complying with section 417 of the act. The congressionally-identified purpose of the Registry is to provide “a reliable mechanism to track patterns of adulteration in food [which] would support efforts by the Food and Drug Administration to target limited inspection resources to protect the public health” (Public Law 110–85, section 1005(a)(4) of FDAAA). To further the development of the Registry, section 417 of the act requires FDA to establish an electronic portal by which

instances of reportable food must be submitted to FDA by responsible parties and may be submitted by public health officials.

Responsible parties will be required to submit reports regarding instances of reportable food via the Reportable Food electronic portal established by FDA: The MedWatch^{Plus} portal. The MedWatch^{Plus} portal is a new electronic system for collecting, submitting and processing adverse event reports and other safety information for all FDA-regulated products and includes the Reportable Food electronic portal. FDA is developing and implementing the MedWatch^{Plus} portal in a phased fashion. Responsible parties must comply with section 417 of the act using the Reportable Food electronic portal on September 8, 2009. The prohibited act provisions of the act related to the Registry will also apply on September 8, 2009.

Reporting

Under section 417(d)(1) of the act, the “responsible party” must submit a report to FDA through the Reportable Food electronic portal including certain information on a reportable food (“reportable food report”). The “responsible party” is defined in section 417(a)(1) of the act as a person that submits the registration under section 415(a) of the act (21 U.S.C. 360d(a)) for a food facility that is required to register under section 415(a), at which such article of food is manufactured, processed, packed, or held. Persons who are required to submit a facility registration under section 415 of the act are the owner, operator, or agent in charge of a domestic or foreign facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States. A “reportable food” is defined in section 417(a)(2) of the act as an article of food (other than infant formula) for which there is a reasonable probability that the use of, or exposure to, such article of food will cause serious adverse health consequences or death to humans or animals.

The MedWatch^{Plus} Portal will provide one central point-of-entry for persons submitting information to FDA regarding the safety of FDA-regulated products. The agency believes that providing one central point-of-entry will better enable persons to submit their information to FDA. In addition, mandatory reporters will be able to use the Internet to access the MedWatch^{Plus} Portal to report safety concerns about human and animal food, thus fulfilling the mandatory reporting requirements of FDAAA that are the subject of the draft guidance.

In the **Federal Register** of October 23, 2008 (73 FR 63153), FDA requested public comments on a proposed collection of information entitled “Electronic Data Collection Using MedWatch^{Plus} Portal and Rational Questionnaire.” In that document, the agency calculated the reporting burden for reportable food reports. Specifically, the agency estimated the number of respondents and the total annual responses for reportable food based on the mandatory and voluntary reports recently submitted to FDA that would be considered reportable food reports in the future (73 FR 63153 at 63156 and 63157). FDA estimated that it would receive 200 to 1,200 reportable food reports annually from 200 to 1,200 mandatory and voluntary users of the electronic reporting system. The agency based these estimates on the receipt of 625 voluntary food complaints leading to adverse events from January 1, 2008, to June 30, 2008, and also on the 206 and 182 Class 1 Recalls for human food that took place in fiscal years 2006 and 2007, respectively. FDA utilized the upper-bound estimate of 1,200 reports per year for calculating the reportable food reporting burden. FDA estimated the reporting burden for a mandatory reportable food report to be 0.6 hours, for a total burden of 720 hours annually (1,200 reports × 0.6 hours = 720 hours). FDA estimated the reporting burden for a voluntary reportable food report to be 0.6 hours, for a total burden of 720 hours annually (1,200 reports × 0.6 hours = 720 hours). The estimated total annual responses are based on initial reports and amendments to those reports. These burden estimates have been submitted to OMB in the proposed collection of information entitled “Electronic Data Collection Using MedWatch^{Plus} Portal and Rational Questionnaire,” which is currently under review (74 FR 23721; May 20, 2009).

In addition to the burden estimates submitted to OMB for approval, the agency has subsequently determined that there will be additional reporting burdens associated with the Registry requirements of FDAAA. Specifically, FDA may require the responsible party to notify the immediate previous source and/or immediate subsequent recipient of the reportable food (section 417(d)(6)(B)(i) and (d)(6)(B)(ii) of the act). Similarly, FDA may also require the responsible party that is notified (i.e., the immediate previous source and/or immediate subsequent recipient) to notify their own immediate previous source and/or immediate subsequent recipient of the reportable food (section

417(d)(7)(C)(i) and (d)(7)(C)(ii) of the act). We estimate these reporting burdens in the following paragraphs.

Notification to the immediate previous source and immediate subsequent recipient of the article of food may be accomplished by electronic communication methods such as e-mail, fax or text messaging or by telegrams, mailgrams, or first class letters.

Notification may also be accomplished by telephone call or other personal contacts; but, FDA recommends that such notifications also be confirmed by one of the previously mentioned methods and/or documented in an appropriate manner. FDA may require that the notification include any or all of the following data elements: (1) The date on which the article of food was determined to be a reportable food; (2) a description of the article of food, including the quantity or amount; (3) the extent and nature of the adulteration; (4) the results of any investigation of the cause of the adulteration if it may have originated with the responsible party, if known; (5) the disposition of the article of food, when known; (6) product information typically found on packaging including product codes, use-by dates, and the names of manufacturers, packers, or distributors sufficient to identify the article of food; (7) contact information for the responsible party; (8) contact

information for parties directly linked in the supply chain and notified under section 417(d)(6)(B) or (d)(7)(C) of the act, as applicable; (9) the information required by FDA to be included in the notification provided by the responsible party involved under section 417(d)(6)(B) or (d)(7)(C) of the act or required to report under section 417(d)(7)(A) of the act; and (10) the unique number described in section 417(d)(4) of the act (section 417(d)(6)(B)(iii)(I), (d)(7)(C)(iii)(I), and (e) of the act). FDA may also require that the notification provide information about the actions that the recipient of the notification shall perform and/or any other information FDA may require (section 417(d)(6)(B)(iii)(II), (d)(6)(B)(iii)(III), (d)(7)(C)(iii)(II), and (d)(7)(C)(iii)(III) of the act).

FDA estimates that notifying the immediate previous recipient will take 0.6 hours per reportable food and notifying the immediate subsequent recipient will take 0.6 hours per reportable food. FDA also estimates that it will take 0.6 hours for the immediate previous source and/or the immediate subsequent recipient to also notify their immediate previous source and/or immediate subsequent recipient. The agency bases its estimate on its experience with mandatory and voluntary reports recently submitted to FDA that would be considered

reportable food reports in the future (73 FR 63153 at 63157).

FDA estimates that all mandatory reports will require that the immediate previous source and subsequent recipient be notified. We do not expect that this notification burden will apply to voluntary reporters of reportable foods. Therefore, the total estimated burden of notifying the immediate previous source and immediate subsequent recipient under section 417(d)(6)(B)(i), (d)(6)(B)(ii), (d)(7)(C)(i), and (d)(7)(C)(ii) of the act for 1,200 reportable foods will be 2,880 hours annually (1,200 × 0.6 hours) + (1,200 × 0.6 hours) + (1,200 × 0.6 hours) + (1,200 × 0.6 hours). FDA's utilization of an upper-bound estimate of 1,200 reports and 0.6 hours per report is likely an overestimate of the number of reports that may be received and an overestimate of the time necessary to notify 1 immediate previous source and 1 immediate subsequent recipient. However, these overestimates may be justified because FDA cannot know how often multiple immediate previous sources or immediate subsequent recipients may need to be notified for each reportable food event. FDA requests comment on these burden estimates.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

Activity	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Notifying immediate previous source of the article of food under section 417(d)(6)(B)(i) of the act	1,200	1	1,200	0.6	720
Notifying immediate subsequent recipient of the article of food under section 417(d)(6)(B)(ii) of the act	1,200	1	1,200	0.6	720
Notifying immediate previous source of the article of food under section 417(d)(7)(C)(i) of the act	1,200	1	1,200	0.6	720
Notifying immediate subsequent recipient of the article of food under section 417(d)(7)(C)(ii) of the act	1,200	1	1,200	0.6	720
Total					2,880

¹ There are no capital or operating and maintenance costs associated with this collection of information.

Recordkeeping

The agency has determined that there will be recordkeeping burdens associated with FDAAA. Section 417(g) of the act requires that responsible persons maintain records related to reportable foods reports and notifications under section 417 of the act for a period of 2 years. We estimate

that each mandatory report and its associated notifications will require 30 minutes of recordkeeping for the 2-year period, or 15 minutes per record per year. FDA bases its estimate on its experience with a similar "per event" type of recordkeeping for food and cosmetics derived from cattle materials.

For that recurring recordkeeping burden, which involves sending, verifying, and storing documents regarding shipments of cattle material used in human food and cosmetics, we estimated that the recurring recordkeeping burden would be about

15 minutes per week (71 FR 59653 at 59667; October 11, 2006).

The annual recordkeeping burden for mandatory reports and their associated notifications is thus estimated to be 300 hours (1,200 × 0.25 hours).

We do not expect that records will always be kept in relation to voluntary reporting, nor is any such recordkeeping required by section 417 of the act. Therefore, FDA estimates that records will be kept for 600 of the 1,200 voluntary reports we expect to receive

annually. The recordkeeping burden associated with voluntary reports is thus estimated to be 150 hours annually (600 × 0.25 hours).

The estimated total annual recordkeeping burden is shown in table 2 of this document.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

Activity	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records ²	Hours per Record	Total Hours
Maintenance of reportable food records under section 417(g) of the act— Mandatory reports	1,200	1	1,200	0.25	300
Maintenance of reportable food records under section 417(g) of the act— Voluntary reports	600	1	600	0.25	150
Total					450

¹ There are no capital or operating and maintenance costs associated with this collection of information.

² For purposes of estimating number of records and hours per record, a “record” means all records kept for an individual reportable food by the responsible party or a voluntary reporter.

The draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in question 28 of the guidance have been approved under OMB control no. 0910–0249.

Dated: June 9, 2009.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E9–14048 Filed 6–15–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; NIH Intramural Research Training Program Applications

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Office of the Director, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: NIH Intramural Research Training Program Applications.

Type of Information Collection Request: Revision/OMB No. 0925–0299; 8/31/2009.

Need and Use of Information Collection: The proposed information collection activity is for the purpose of collecting applicant data for Training Fellowships in the NIH Intramural Research Program. This information must be submitted in order to receive due consideration for a fellowship and will be used to determine the eligibility and quality of potential awardees.

Frequency of Response: On occasion.

Affected Public: Individuals seeking intramural training opportunities and references for these individuals.

Type of Respondents: Postdoctoral, predoctoral, postbaccalaureate, technical, clinical, and student IRTA applicants.

There are no capital costs, operating costs, and/or maintenance costs to report.

Type of respondent	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Postdoctoral	3,424	2.00	1.00	6,848
Predoctoral	1,458	1.00	1.00	1,458
Postbaccalaureate	4,750	1.00	1.00	4,750
Technical	233	1.00	1.00	233
Clinical	400	1.00	1.00	400
Student	14,334	1.00	1.00	14,334
All categories (Race/Gender/Ethnicity survey)	4,307	1.00	0.25	1,077
References for all categories	38,725	1.00	1.00	38,725
Total	67,631	1.125	0.90625	67,825

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and the clarity of information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Steven Alves, Website Programs Specialist, Office of Intramural Training and Education, OD, NIH, Building 2, Room 2E06, 2 Center Drive MSC 0240, Bethesda, MD 20892-0240, or call non-toll-free number 301-402-1294, or e-mail your request, including your address to: alvess@mail.nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: June 9, 2009.

Sharon Milgram,

Director, Office of Intramural Training & Education, National Institutes of Health.

[FR Doc. E9-14156 Filed 6-15-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "CAHPS Field Test of Proposed Health

Information Technology Questions and Methodology." In accordance with the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on March 31, 2009 and allowed 60 days for public comment. One comment was received. The purpose of this notice is to allow an additional 30 days for public comment. This notice differs from the 60-day notice in the following ways: (1) The number of respondents has been increased from 4,800 to 7,200; (2) the burden hours are increased from 1,600 to 2,400; (3) an incentive experiment has been added; and (4) an experiment testing the use of a 4-point vs. 6-point response scale has been added.

DATES: Comments on this notice must be received by July 16, 2009.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395-6974 (attention: AHRQ's Desk Officer) or by e-mail at

OIRA_submission@omb.eop.gov (attention: AHRQ's Desk Officer). Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by e-mail at doris.lefkowitz@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION:

Proposed Project

"CAHPS Field Test of Proposed Health Information Technology Questions and Methodology"

The Consumer Assessment of Healthcare Providers and Systems (CAHPS®) program is a multi-year initiative of the Agency for Healthcare Research and Quality. AHRQ first launched the program in October 1995 in response to concerns about the lack of good information about the quality of health plans from the enrollees' perspective. Numerous public and private organizations collected information on enrollee and patient satisfaction, but the surveys varied from sponsor to sponsor and often changed from year to year. The CAHPS® program was designed to:

- Make it possible to compare survey results across sponsors and over time; and
- Generate tools and resources that sponsors can use to produce

understandable and usable comparative information for consumers.

Over time, the program has expanded beyond its original focus on health plans to address a range of health care services and meet the various needs of health care consumers, purchasers, health plans, providers, and policymakers. Based on the literature review and an assessment of currently available survey instruments, AHRQ identified the need to develop a new health information technology module of the CAHPS® survey. The intent of the planned module is to examine in greater detail than previously patients' perspective on health information technology use by their health care professionals. The intent of the new module is to provide information to clinicians, group practices, health plans, and other interested parties regarding the impact of the use of health information technology on patients' experiences with care. The set of questions about health information technology will be tested as a part of CAHPS® Clinician & Group Survey, Adult Primary Care Questionnaire.

This study, funded through cooperative agreements with RAND and Harvard, is being conducted pursuant to AHRQ's statutory authority to conduct research and evaluations on health care and systems for the delivery of such care, including activities with respect to (1) the quality, effectiveness, efficiency, appropriateness and value of health care services and (2) health care technologies, facilities and equipment. See 42 U.S.C. 299a(a)(1) and (5).

This study is a one-time field test to be conducted in calendar year 2009. The field test to be conducted under this request will be done for the following purposes:

a. *Analysis of revised item wording*—Assess candidate wordings for survey items.

b. *Mode Analysis*—Evaluate the equivalence of items administered by mail, telephone, and Internet; compare the characteristics and responses of respondents who complete the survey by different modes of administration.

c. *Case mix adjustment analysis*—Evaluate variables that need to be considered for case mix adjustment of scores.

d. *Psychometric Analysis*—Provide information for the revision and shortening of questionnaires based on the assessment of the reliability and validity of survey items and composites.

e. *Test a 4-point vs. a 6-point response scale*—The CAHPS Clinician & Group Survey will test both a 4-point response scale (Never, Sometimes, Usually, Always) and a 6-point response scale

(Never, Almost Never, Sometimes, Usually, Almost Always, Always). For those sites already employing the 6-point response scale, a subset of questions will be repeated using the 4-point scale. This will allow comparison of item performance within a site across both versions of the response scale, and collect data that can be used to inform comparison of data collected using the two versions of the response scales.

f. *Incentive experiment*—Provide information on the effectiveness of a post-paid, \$5 incentive as a mechanism to enhance response by randomizing half the sample at one site to an experiment in which a post-paid incentive of \$5 is provided for completing the survey.

The end result will be a data collection related to the assessment of patients' perspective on how well health information technology is being used by health care professionals. The field testing will ensure that the future data collection yields high quality data and to ensure a minimization of respondent burden, increase agency efficiency, and improve responsiveness to the public. The survey items will be added to currently available CAHPS® surveys and will provide a venue to clinicians and practitioners to verify the quality of their services.

Method of Collection

Respondents will be selected from six purposively chosen sites (health care providers and health insurance plans) that have implemented health information technology systems, such as electronic health records (EHRs) and electronic prescription refills, that are used by sufficient numbers of enrollees (*i.e.*, at least 2400 enrollees per site). From each site the potential respondent universe will be patients who have been receiving care from a clinician at the health provider for at least one year prior to the survey and who have used

one or more features of the health providers' EHR system. EHR systems managers have the ability to track which patients log on to the system, and which features (*e.g.*, examine lab results, request prescription refill, etc.) the patients used. The sample selection at each site will be carried out jointly by senior leadership at the site (*e.g.*, chief information officer) and a survey vendor experienced in conducting the CAHPS survey. We will ask the sites to provide a list of their enrollees who have seen a provider in the last 12 months and who have logged onto the EHR system in the last 12 months. We will randomly select a sample of these enrollees for the field test. We will use common statistical techniques to select the sample, *e.g.*, computerized random number generation applied to a list of enrollees. When possible, we will stratify the enrollees at a site based on extent of HIT exposure to ensure a mix of different enrollees in the study (*e.g.*, enrollees who use many HIT functions versus those who use few HIT functions). Institutional Review Boards (IRBs) at Harvard and RAND evaluated the study to ensure proper protection of patients' right to privacy and confidentiality as well as avoidance of harm. The study received approvals from both IRBs.

The draw will be a sample large enough to yield approximately 7,200 respondents. Because we are assuming a 50% response rate, we will draw approximately 14,400 patients to achieve our total of 7,200 respondents.

Sites to be selected will meet the following requirements:

- As much geographic distribution as possible;
- Substantial number of patients with exposure to health information technology.

We anticipate a mixed mail-telephone mode of data collection which will include the following steps:

- Mailing an advance notification letter;
- Mailing of the questionnaire and cover letter;
- Postal card reminder;
- A second mailing of the questionnaire to non-respondents;
- Minimum of six telephone calls to every mail non-respondent approximately two weeks after the final mailing to complete a telephone interview.

We will also administer the survey by internet to some of the study participants. For those assigned to internet administration an e-mail invitation will be sent that includes an invitation to participate along with a URL link to a web-based survey hosted on a secure server. Sites will be divided between RAND's Survey Research Group and the Center for Survey Research, University of Massachusetts, Boston (CSR). RAND will use the software CfMC to administer the survey, while CSR will use Snap software.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden for the respondents' time to participate in this data collection. The CAHPS® Clinician & Group Survey, Adult Primary Care Questionnaire will be completed by about 7,200 persons. The estimated response time of 20 minutes is based on the written length of the survey and AHRQ's experience with previous CAHPS® surveys of comparable length that were fielded with a similar, although not identical, population. The total burden hours are estimated to be 2,400 hours.

Exhibit 2 shows the respondents' cost burden associated with their time to participate in this data collection. The total cost burden is estimated to be \$46,944.

EXHIBIT 1. ESTIMATED ANNUALIZED BURDEN HOURS

Form Name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
CAHPS® Clinician & Group Survey, Adult Primary Care Questionnaire	7,200	1	20/60	2,400
Total	7,200	1	na	2,400

EXHIBIT 2. ESTIMATED ANNUALIZED COST BURDEN

Form Name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
CAHPS® Clinician & Group Survey, Adult Primary Care Questionnaire	7,200	2,400	\$19.56	\$46,944

EXHIBIT 2. ESTIMATED ANNUALIZED COST BURDEN—Continued

Form Name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Total	7,200	2,400	na	46,944

*Based upon the average wages, “National Compensation Survey: Occupational Wages in the United States, May 2007,” U.S. Department of Labor, Bureau of Labor Statistics.

Estimated Annual Costs to the Federal Government

The total cost to the Federal Government for developing the Health Information Technology questions, and testing them within the CAHPS® Clinician & Group Survey, Adult Primary Care Questionnaire, is \$780,000, including the cost of reviewing the literature, conducting focus groups and cognitive interviews, field testing the instrument, analyzing the data, finalizing the survey, preparing reports, writing papers for journal submission, and project management (see Exhibit 3). Data collection will not exceed one year.

EXHIBIT 3. ESTIMATED ANNUAL COST

Cost component	Total cost
Review of literature	\$35,000
Focus groups	60,000
Cognitive interviews	80,000
Field test	260,000
Data analyses	80,000
Finalize survey	50,000
Preparation of reports and journal papers	85,000
AHRQ project management	130,000
Total	780,000

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ’s information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ’s estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and

included in the Agency’s subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: June 4, 2009.
Carolyn M. Clancy,
Director.
 [FR Doc. E9–14080 Filed 6–15–09; 8:45 am]
BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: “2010–2011 Medical Expenditure Panel Survey Insurance Component.” In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by August 17, 2009.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by e-mail at doris.lefkowitz@ahrq.hhs.gov.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by e-mail at doris.lefkowitz@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION:

Proposed Project

2010–2011 Medical Expenditure Panel Survey Insurance Component

AHRQ seeks to renew the Medical Expenditure Panel Survey Insurance Component (MEPS–IC) for calendar years 2010 and 2011. The MEPS–IC, an annual survey of the characteristics of employer-sponsored health insurance, was first conducted by AHRQ in 1997 for the calendar year 1996. The survey has since been conducted annually for calendar years 1996 through 2009, except for 2007. A change from prior year collection to calendar year collection in 2008 meant that no data were collected for the 2007 calendar year, but the change has allowed for much earlier release of the survey results for the 2008 calendar year forward. AHRQ is authorized to conduct the MEPS–IC pursuant to 42 U.S.C. 299b–2.

Employment-based health insurance is the source of coverage for over 90 million workers and their family members, and is a cornerstone of the current U.S. health care system. The MEPS–IC measures the extent, cost, and coverage of employment-based health insurance. Statistics are produced at the National, State, and sub-State (metropolitan area) level.

The MEPS–IC is designed to provide data for Federal policymakers evaluating the effects of National and State health care reforms. It also provides descriptive data on the current employment-based health insurance system and data for modeling the differential impacts of proposed health policy initiatives. The MEPS–IC also supplies critical State and National estimates of health insurance spending for the National Health Accounts and Gross Domestic Product. Data to be collected from each employer will include a description of the organization (e.g., size, industry) and descriptions of health insurance plans available, plan enrollments, total plan costs and costs to employees. This survey will be conducted for AHRQ by the Bureau of the Census using an annual sample of employers selected from Census Bureau lists of private sector employers and governments.

The MEPS-IC is one of three components of the MEPS. The others are the Household and Medical Provider Components:

- MEPS Household Component is a sample of households participating in the National Health Interview Survey in the prior calendar year. These households are interviewed 5 times over a 2½ year period for MEPS. The 5 interviews yield two years of information on use of and expenditures for health care, sources of payment for that health care, insurance status, employment, health status and health care quality.

- MEPS Medical Provider Component collects information from medical and financial records maintained by hospitals, physicians, pharmacies, health care institutions, and home health agencies named as sources of care by household respondents.

This clearance request is for the MEPS-IC only.

Method of Collection

Data collection for the MEPS-IC takes place in three phases at each sample establishment: Prescreening interview, questionnaire mailout, and nonresponse follow-up. An establishment is a single

location of a private sector or State and local government employer.

First, a prescreening interview is conducted by telephone. For those establishments that offer health insurance, its goal is to obtain the name and title of an appropriate person in each establishment to whom a MEPS-IC questionnaire will be mailed. For establishments which do not offer health insurance, a brief set of questions about establishment characteristics is administered at the end of the prescreening interview to close out the case. This step minimizes burden for many small establishments that do not offer health insurance.

The next phase, questionnaire mailout, makes use of two forms—one requests establishment-level information (e.g., total number of employees) and the other requests plan-level information (e.g., the plan premium for single coverage) for each plan (up to four) offered by the establishment.

In the final phase, establishments which do not respond to the initial MEPS-IC mail questionnaire are mailed a nonresponse follow-up package. Those establishments which fail to respond to

the second mailing are contacted for a telephone follow-up using computer-assisted interviewing.

Data collection for the largest private sector and government units, which have high survey response burdens, may differ somewhat from the above pattern.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to provide the requested data. The Prescreener questionnaire will be completed by 32,006 respondents and takes about 5½ minutes to complete. The Establishment questionnaire will be completed by 24,965 respondents and takes about 23 minutes to complete. The Plan questionnaire will be completed by 21,437 respondents and will require an average of 2.1 responses per respondent. Each Plan questionnaire takes about 11 minutes to complete. The total annualized burden hours are estimated to be 20,471 hours.

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in this data collection. The annualized cost burden is estimated to be \$546,576.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Prescreener Questionnaire	32,006	1	0.09	2,881
Establishment Questionnaire	24,965	1	0.38	9,487
Plan Questionnaire	21,437	2.1	0.18	8,103
Total	78,408	na	na	20,471

Note: The total number of respondents increased from previous clearances not due to any increase in sample size, but due to a

change in the way the number of respondents is reported. While now total respondents are the sum of respondents per form, previously

they were reported as the number of unique establishments completing at least one form.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Prescreener Questionnaire	32,006	2,881	26.70	\$76,923
Establishment Questionnaire	24,965	9,487	26.70	253,303
Plan Questionnaire	21,437	8,103	26.70	216,350
Total	78,408	20,471	na	546,576

* Based upon the mean wage for Compensation, benefits, and job analysis specialists, civilian workers, National Compensation Survey: Occupational Earnings in the United States, 2007, U.S. Department of Labor, Bureau of Labor Statistics.

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the estimated total and annualized cost for this two year

project. The annual cost to the Federal Government is estimated to be \$10.3 million.

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST (\$ THOUSANDS)

Cost component	Total cost	Annualized cost
Project Development	\$3,099	\$1,550
Data Collection Activities	7,230	3,615
Data Processing and Analysis	7,230	3,615
Project Management	2,066	1,033
Overhead	1,033	517
Total	20,658	10,329

Note: Components may not sum to Total due to rounding.

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research, quality improvement and information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: June 4, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9-14079 Filed 6-15-09; 8:45 am]

BILLING CODE 4160-90-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Emergency Review; Comment Request; NIH NCI Clinical Trials Reporting Program (CTRP) Database (NCI)

SUMMARY: In accordance with Section 3507(j) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to Emergency review and approve the information collection by July 1, 2009. Given the long term nature of this project and the Recovery Act timelines, the NCI has requested approval to conduct emergency processing of information collections pursuant to 5 CFR 1320.13. NIH cannot reasonably comply with the normal clearance procedures for information collection, because the use of regular procedures would delay the collection and hinder the agency in accomplishing its mission and meeting new statutory requirements, to the detriment of the public good. The NIH may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: NIH NCI Clinical Trials Reporting Program (CTRP) Database.

Type of Information Collection

Request: Emergency.

Need and Use of Information

Collection: The NCI is developing an electronic resource, the NCI Clinical Trials Reporting Program (CTRP) Database, to serve as a single, definitive source of information about all NCI-

supported clinical research, thereby enabling the NCI to execute its mission to reduce the burden of cancer and to ensure an optimal return on the nation's investment in cancer clinical research. Information will be submitted by clinical research administrators as designees of clinical investigators who conduct NCI-supported clinical research. Deployment and extension of the CTRP Database, which will allow the NCI to consolidate reporting, aggregate information and reduce redundant submissions, is an infrastructure development project that will be enabled by public funds expended pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5 ("Recovery Act"). This information collection adheres to The Public Health Service Act, Section 407(a)(4) (codified at 42 U.S.C. 285a-2(a)(2)(D)), which authorizes and requires the NCI to collect, analyze and disseminate all data useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country.

Frequency of Response: Once per initial trial registration; four amendments per trial annually.

Affected Public: Individuals, business and other for-profits, and not-for-profit institutions.

Type of Respondents: Clinical research administrators on behalf of clinical investigators. The annual reporting burden is estimated at 33,000 hours (see Table below).

There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondents	Survey instrument	Number of respondents	Frequency of response	Average time per response (hours)	Annual burden hours
Clinical Trials	Initial Registration	5,500	1	2.0	11,000
	Amendment	5,500	4	1.0	22,000
Total	33,000

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Attention: NIH Desk Officer, Office of Management and Budget, at OIRA_submission@omb.eop.gov or by fax to 202-395-6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact John Speakman, Associate Director for Clinical Trials Products and Programs, Center for Biomedical Informatics and Information Technology, National Cancer Institute, NIH, DHHS, 2115 E. Jefferson Street, Suite 6000, Rockville, MD 20892 or call non-toll-free number 301-451-8786 or e-mail your request, including your address to: john.speakman@nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 15 days of the date of this publication.

Dated: June 9, 2009.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. E9-14089 Filed 6-15-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Refugee Resettlement; Single-Source Program Expansion Supplement to the Lutheran Social Services of South Dakota (LSS-SD) Under the South Dakota Wilson-Fish Program, Award

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Notice to award a single-Source program expansion supplement to the Lutheran Social Services of South Dakota (LSS-SD) under the South Dakota Wilson-Fish Program.

CFDA Number: 93.583.

Legislative Authority: The Refugee Act of 1980 as amended, Wilson-Fish Amendment, 8 U.S.C. 1522(e)(7); section 412(e)(7)(A) of the Immigration and Nationality Act.

Amount of Award: \$125,000.

Project Period: 09/30/2007-09/29/2010

Justification for the Exception to Competition: The Wilson-Fish program is an alternative to the traditional State-administered refugee assistance program for providing integrated assistance and services to refugees, asylees, Amerasian Immigrants, Cuban and Haitian Entrants, Trafficking Victims and Iraqi/Afghani SIV's. South Dakota is one of 12 sites that has chosen this alternative approach.

The supplemental funds will allow the grantee, LSS-SD, located in Sioux Falls, SD, to provide refugee cash assistance through the end of this fiscal year to eligible refugees (and others eligible for refugee benefits) under the South Dakota Wilson-Fish Program.

The primary reason for the grantee's supplemental request is a higher number of arrivals than anticipated when the grantee's budget was submitted and approved last year. The Refugee Act of 1980 mandates that the Office of Refugee Resettlement (ORR) reimburse States and Wilson-Fish projects for the costs of cash and medical assistance for newly arriving

refugees. Since 1991, ORR has reimbursed States and Wilson-Fish agencies for providing cash and medical assistance to eligible individuals during their first eight months in the United States. Hence, the supplement is consistent with the purposes of the Wilson-Fish Program, the Refugee Act of 1980, and ORR policy.

CONTACT FOR FURTHER INFORMATION: Carl Rubenstein, Wilson-Fish Program Manager, Office of Refugee Resettlement, Aerospace Building, 8th Floor West, 901 D Street, SW., Washington, DC 20447. Telephone: 202-205-5933, *E-mail:* crubenstein@acf.hhs.gov.

Dated: 06/04/2009.

David H. Siegel,

Acting Director, Office of Refugee Resettlement.

[FR Doc. E9-14140 Filed 6-15-09; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification

is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at <http://www.workplace.samhsa.gov> and <http://www.drugfreeworkplace.gov>.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2-1042, One Choke Cherry Road, Rockville, Maryland 20857; 240-276-2600 (voice), 240-276-2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. Subpart C of the Mandatory Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414-328-7840/800-877-7016 (Formerly: Bayshore Clinical Laboratory).
ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585-429-2264.
Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901-794-5770/888-290-1150.
Aegis Analytical Laboratories, 345 Hill Ave., Nashville, TN 37210, 615-255-

2400 (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc.).
Baptist Medical Center-Toxicology Laboratory, 9601 I-630, Exit 7, Little Rock, AR 72205-7299, 501-202-2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).
Clendo Reference Laboratory, Avenue Santa Cruz #58, Bayamon, Puerto Rico 00959, 787-620-9095.
Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215-2802, 800-445-6917.
Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229-671-2281.
DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215-674-9310.
DynaLIFE Dx*, 10150-102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780-451-3702/800-661-9876 (Formerly: Dynacare Kasper Medical Laboratories).
ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662-236-2609.
Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519-679-1630.
Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504-361-9899/800-433-3823 (Formerly: Laboratory Specialists, Inc.).
Kroll Laboratory Specialists, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804-378-9130 (Formerly: Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).
Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713-856-8288/800-800-2387.
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908-526-2400/800-437-4986 (Formerly: Roche Biomedical Laboratories, Inc.).
Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919-572-6900/800-833-3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).
Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866-827-8042/800-233-6339 (Formerly: LabCorp Occupational Testing Services, Inc.;

MedExpress/National Laboratory Center).
LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913-888-3927/800-873-8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).
Maxxam Analytics*, 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905-817-5700, (Formerly: Maxxam Analytics Inc., NOVAMANN (Ontario), Inc.).
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651-636-7466/800-832-3244.
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503-413-5295/800-950-5295.
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612-725-2088.
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661-322-4250/800-350-3515.
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888-747-3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800-328-6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509-755-8991/800-541-7891x7.
Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858-643-5555.
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770-452-1590/800-729-6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610-631-4600/877-642-2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 866-370-6699/818-989-2521 (Formerly: SmithKline Beecham Clinical Laboratories).
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505-727-6300/800-999-5227.
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574-234-4176 x276.

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602-438-8507/800-279-0027.

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405-272-7052.

Sterling Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800-442-0438.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573-882-1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305-593-2260.

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755-5235, 301-677-7085.

The following laboratory voluntarily withdrew from the NLCP on May 30, 2009:

Diagnostic Services, Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 239-561-8200/800-735-5416.

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Dated: June 8, 2009.

Elaine Parry,

Director, Office of Program Services, SAMHSA.

[FR Doc. E9-14084 Filed 6-15-09; 8:45 am]

BILLING CODE 4160-20-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Numbers NIOSH-083 Supplied Air Respirators, NIOSH 148 Air Fed Ensembles, NIOSH-168 Total Inward Leakage (for respirators other than filtering facepieces and halfmasks)]

Notice of Public Meeting To Discuss NIOSH's Respirator Standards Development Efforts

Authority: 29 U.S.C. 651 et seq.

AGENCY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of a public meeting.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and prevention (CDC), will conduct a public meeting to discuss current respirator standards development projects for Supplied Air Respirators (SAR); Air Fed Ensembles; and Total Inward Leakage (TIL) for respirators other than filtering facepieces and halfmasks. There will be an opportunity for discussion following NIOSH's presentations and an accompanying poster session.

Public Meeting Time and Date: 8:30 a.m. to 5 p.m., September 17, 2009. On-site registration will be held beginning at 7:45 a.m.

Place: Hyatt Regency Pittsburgh International Airport, 1111 Airport Boulevard, Pittsburgh, PA 15231. Interested parties should make hotel reservations directly with the Hyatt Regency Pittsburgh International Airport by calling (800) 233-1234, before the cut-off date of September 2, 2009. You must reference the NIOSH room block to receive the special group rate of \$114.00 per night that has been negotiated for meeting guests.

Status: The meeting will be open to the public, limited only by the space available. The meeting room accommodates approximately 200 people.

Instructions: Requests to make presentations at the public meeting

should be mailed to the NIOSH Docket Office, Robert A. Taft Laboratories, MS-C34, 4676 Columbia Parkway, Cincinnati, OH 45226. Requests may also be submitted by telephone (513) 533-8611, facsimile (513) 533-8285, or e-mailed to niocindocket@cdc.gov. All requests to present should contain the name, address, telephone number, and relevant business affiliations of the presenter, topic of the presentation, and the approximate time requested for the presentation. Oral presentations should be limited to 15 minutes.

After reviewing the requests for presentations, NIOSH will notify the presenter that his/her presentation is scheduled. If a participant is not present when their presentation is scheduled to begin, the remaining participants will be heard in order. At the conclusion of the meeting, an attempt will be made to allow presentations by any scheduled participants who missed their assigned times. Attendees who wish to speak but did not submit a request for the opportunity to make a presentation may be given this opportunity at the conclusion of the meeting, at the discretion of the presiding officer.

This meeting will also be using Audio/LiveMeeting Conferencing, remote access capabilities where interested parties may listen in and review the presentations over the internet simultaneously. Parties remotely accessing the meeting will have the opportunity to ask questions during the open comment period. To register to use this capability, please contact the National Personal Protective Technology Laboratory (NPPTL), Policy and Standards Development Branch, Post Office Box 18070, 626 Cochran's Mill Road, Pittsburgh, PA 15236, telephone (412) 386-5200, facsimile (412) 386-4089. This option will be available to participants on a first come, first serve basis and is limited to the first 50 participants.

Background: NIOSH, National Personal Protective Technology Laboratory (NPPTL), will present information to attendees concerning the development of the concepts being considered regarding updated performance criteria for the various classes of respirators in 42 Code of Federal Regulations, Part 84. Participants will be given an opportunity to ask questions and to present individual comments that they may wish to have considered.

FOR FURTHER INFORMATION CONTACT: Jonathan Szalajda, NPPTL, Policy and Standards Development Branch, Post Office Box 18070, 626 Cochran's Mill Road, Pittsburgh, PA 15236, telephone

(412) 386-5200, facsimile (412) 386-4089, E-mail npptlevents@cdc.gov.

Reference: Information regarding documents that will be discussed at the meeting may be obtained from the NIOSH Web site using the following link: <http://www.cdc.gov/niosh/review/public/> using the docket numbers listed in this notice.

Dated: June 5, 2009.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E9-14085 Filed 6-15-09; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. 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 on Aging Special Emphasis Panel; Einstein Aging Study.

Date: July 15, 2009.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William Cruce, PhD., Scientific Review Officer, National Institute on Aging, Scientific Review Branch, Gateway Building 2C-212, 7201 Wisconsin Ave., Bethesda, MD 20814, 301-402-7704, crucew@nia.nih.gov.

Name of Committee: National Institute on Aging Special Emphasis Panel; Restless Legs Syndrome.

Date: July 16, 2009.

Time: 10 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William Cruce, PhD., Scientific Review Officer, National Institute

on Aging, Scientific Review Branch, Gateway Building 2C-212, 7201 Wisconsin Ave., Bethesda, MD 20814, 301-402-7704, crucew@nia.nih.gov.

Name of Committee: National Institute on Aging Special Emphasis Panel; Early Alzheimer's Disease.

Date: July 29, 2009.

Time: 2 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William Cruce, PhD., Scientific Review Officer, National Institute on Aging, Scientific Review Branch, Gateway Building 2C-212, 7201 Wisconsin Ave., Bethesda, MD 20814, 301-402-7704, crucew@nia.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9-14088 Filed 6-15-09; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Health Promotion and Disease Prevention Announcement Type: New Cooperative Agreement Funding Opportunity Number: HHS-2009-IHS-HPDP-0001 Catalog of Federal Domestic Assistance Number: 93.443

Key Dates:

Application Deadline Date: July 17, 2009.

Application Review Date: July 27, 2009.

Application Notification: July 28, 2009.

Earliest Anticipated Start Date: August 3, 2009.

I. Funding Opportunity Description

The Indian Health Service (IHS) announces a cooperative agreement for Health Promotion and Disease Prevention (HP/DP). This Program is authorized under the authority of the Public Health Service Act section 301(a); Snyder Act, 25 U.S.C. 13; the Transfer Act, 42 U.S.C. 2001; and the Indian Health Care Improvement Act, 25 U.S.C. 1621(b), et seq., as amended. This Program is described under 93.443 in the Catalog of Federal Domestic Assistance (CFDA).

The purpose of the program is to enable American Indian/Alaska Native (AI/AN) communities to enhance and

expand health promotion and reduce chronic disease by: increasing physical activity, avoiding the use of tobacco and alcohol, and improving nutrition to support healthier AI/AN communities through innovative and effective community, school, clinic and work site health promotion and chronic disease prevention programs. The IHS HP/DP Initiative focuses on enhancing and expanding health promotion and chronic disease prevention to reduce health disparities among AI/AN populations. The initiative is fully integrated with the Department of Health and Human Services (HHS) Initiatives "Healthy People 2010." Potential applicants may obtain a printed copy of Healthy People 2010, (Summary Report No. 017-001-00549-5) or CD-ROM, Stock No. 017-001-00549-5, through the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7945, (202) 512-1800. You may also access this information at the following Web sites: <http://www.healthypeople.gov/Publications> and <http://www.healthierus.gov/>.

The HP/DP Initiative targets cardiovascular disease, cancer, obesity, and underage drinking prevention and intervention efforts in AI/AN communities. Focus efforts include enhancing and maintaining personal and behavioral factors that support healthy lifestyles such as making healthier food choices, avoiding the use of tobacco and alcohol, being physically active, and demonstrating other positive behaviors to achieve and maintain good health. Major focus areas include preventing and controlling obesity by developing and implementing science-based nutrition and physical activity interventions (i.e., increase consumption of fruits and vegetables, reduce consumption of foods that are high in fat, increase breast feeding, reduce television time, and increase opportunities for physical activity). Other focal areas include preventing the consumption of alcohol and tobacco use among youth, increasing accessibility to tobacco cessation programs, and reducing exposure to second-hand smoke.

The HP/DP initiative encourages Tribal applicants to fully engage their local schools, communities, health care providers, health centers, faith-based/spiritual communities, elderly centers, youth programs, local governments, academia, non-profit organizations, and many other community sectors to work together to enhance and promote health and prevent chronic disease in their communities. The initiative is described in the Catalog of Federal Domestic

Assistance No. 93.443 at <http://www.cfd.gov/> and is not subject to the intergovernmental requirements of Executive Order 12372 or the Health Systems Agency review. This competitive grant is awarded under the authorization of the Snyder Act, 25 U.S.C. 13; the Transfer Act, 42 U.S.C. 2001; and the Indian Health Care Improvement Act, 25 U.S.C. 1621(b), *et seq.*, as amended. The grant will be administered under the Public Health Service (PHS) Grants Policy Statement and other applicable agency policies. The HHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2010, a HHS-led activity for setting and monitoring program for priority areas. This program announcement is related to the priority area of Education and Community-Based Programs. Potential applicants may obtain a printed copy of Healthy People 2010, (Summary Report No. 017-001-00549-5) or CD-ROM, Stock No. 017-001-00549-5, through the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7945, (202) 512-1800. You may also access this information at the following Web site: <http://www.healthypeople.gov/>.

Background

Heart disease, cancer and unintentional injuries are the leading cause of morbidity and mortality among AI/AN. Many of these diseases and injuries are impacted by modifiable behavioral risk factors such as physical inactivity, unhealthy diet, commercial tobacco use, and alcohol abuse. Concerted efforts to increase effective public health, prevention, and intervention strategies are necessary to reduce tobacco/alcohol use, poor diet, and insufficient physical activity to reduce the burden of diseases and disabilities in AI/AN communities. Despite the well known benefits of physical activity, many adults and children remain sedentary. A healthy diet and regular physical activity are both important for maintaining a healthy weight. Regular physical activity, fitness, and exercise are extremely important for the health and well being of all people. A proliferation of fast food restaurants and convenience stores selling foods that are high in fat and sugar, as well as sedentary lifestyles have translated into weight gain and obesity. There are also epidemiological studies indicating that increased intake of fruits and vegetables decreases the risk of many types of cancer. Many of the medical and health problems of AI/AN are associated with obesity. According to the IHS Clinical Reporting

System data, more than 80% of the adults are either overweight or obese and 49% of the children (ages 6 to 11) are overweight or obese. Tobacco use is the largest preventable cause of disease and premature death in the United States. More than 400,000 Americans die each year from illnesses related to smoking. Cardiovascular disease and lung cancer are the leading causes of death among AI/AN, and tobacco use is one of the risk factors for these diseases. Non-ceremonial tobacco use varies amongst AI/AN regions and states. Alcohol use is associated with serious public health problems including violence, motor vehicle crashes, and teen pregnancy among youth. Long term drinking can lead to heart disease, cancer, and alcohol-related liver disease. Interventions may include environmental and policy changes in the community, school, clinic or work site to increase physical activity, increase healthier food items at school fund raising, vending machines, school food service, senior centers, shopping centers, food vendors, work sites, Tribal colleges and other community settings. Other strategies include implementing tobacco-free policies in the workplace and clinics, increasing access to safe walking trails, improving access to tobacco cessation programs, utilizing social marketing to promote change and prevent disease, reducing underage drinking, increasing effective self management of chronic disease and associated risk factors, and increasing evidence-based clinical preventive care practices. Programs are expected to utilize evidence-based public health strategies that may include system improvement, public education and information, media campaigns to support healthier behaviors, policy and environmental changes, community capacity building and training, school classroom curricula, and health care provider education.

Identify and implement high priority, effective strategies proven to prevent, reduce and control chronic diseases. The communities must examine their chronic disease burden, identify behavioral risk factors, at-risk populations, current services and resources, Tribal and IHS strategic plans, and partnership capabilities in order to develop a comprehensive intervention plan. Applicants are encouraged to identify and examine local data sources to describe the extent of the health problem. Data sources include IHS Resource Patient Management System (RPMS), Government Performance and Results Act (GPRA), Clinical Registry System

(CRS), diabetes registry, hospital/clinic data, Women Infant Children (WIC) data, school data, behavioral risk surveys, and other sources of information about individual, group, or community health status, needs, and resources. Communities can address behavioral risk factors contributing to chronic conditions and diseases such as cardiovascular disease, diabetes, obesity, and cancer. These factors include physical inactivity, poor nutrition, commercial tobacco use, alcohol and substance use. Applicants are encouraged to apply effective and innovative strategies to reduce chronic disease and unintentional injuries associated with alcohol and substance use. Current evidence-based and promising public health strategies can be found at the IHS Best Practices database at <http://www.ihs.gov/NonMedicalPrograms/HPDP/BPTR/>, Guide to Clinical Preventive Services at <http://www.odphp.osophs.dhhs.gov/pubs/guidecps/>, and <http://www.ahrq.gov> and the National Registry for Effective Programs at <http://www.nrepp.samhsa.gov/>.

II. Award Information

Type of Awards: Cooperative Agreement.

Estimated Funds Available: \$1,100,000.

Anticipated Number of Awards: 11.

Project Period: 3 Year Budget Period.

Maximum Award Amount: \$100,000 per year.

This amount is inclusive of direct and indirect costs. Awards under this announcement are subject to the availability of funds and satisfactory performance. Future continuation awards within the project period will be based on satisfactory performance, availability of funding and continuing needs of the IHS. If you request funding greater than \$100,000, your application may not be considered, and it may not be entered into the review process. You will be notified if your application does not meet submission requirements, and your application will be returned to you.

Cooperative Agreement

This award is a cooperative agreement because it requires substantial Federal programmatic participation in the implementation and evaluation of the project. IHS will be responsible for activities listed under B1-4.

Substantial Involvement Description for Cooperative Agreement

A. Cooperative Agreement Award Activities

(1) All recipient activities funded under this program announcement are required to coordinate with existing Federal, local public health agencies, Tribal programs, and/or local coalitions/task forces to enhance joint efforts to strengthen health promotion and disease prevention programs in the community, school and/or work site. All recipients are required to address at least one of the following or a combination of all four components: School, work site, clinic, or community based interventions.

(2) Successful applicants funded through this Request For Application (RFA) are required to identify a project coordinator who has the authority and responsibility to plan, implement, and evaluate the project.

(3) Budget for the project coordinator to attend a two-day New Grantee Meeting/Training in Albuquerque, New Mexico in the first year of the grant award.

(4) The Government Performance and Results Act of 1993 (Pub. L. 103-62, or "GPRA") requires all Federal agencies to set program performance baselines and targets and to report annually on the degree to which the annual targets were met. As part of the government's GPRA guidelines, all HP/DP grantees are required to provide data on the following core measures for community, school, worksite, and clinic-based prevention projects. Applicants must demonstrate their ability to collect and report on these measures in their applications:

- Baseline data of tobacco and/or alcohol use among targeted population;
- Perception of alcohol/tobacco use among youth and adults;
- Frequency of fruits and vegetable consumption within the past 30 days;
- Frequency of physical education provided in the schools or afterschool programs;
- Policies pertaining to tobacco, physical education, worksite wellness, vending machines offering healthier snacks and beverages; and
- Self-reported physical activity level within the past 30 days.

The terms and conditions of the award will specify how the data is to be submitted and the schedule for submission of data using an online data reporting system that is under development. If funded, each successful applicant will be required to submit a comprehensive plan to HP/DP outlining specifically how the grantee will comply with the data reporting requirements outlined above. This plan

will be due no later than 30 days after receipt of the Notice of Grant Award.

(5) Develop a work plan that is based on local need, health data and prioritized for wellness. The plan will include specific objectives, action steps, responsible person, time line, and evaluation.

(6) The project coordinator will participate on quarterly teleconferences and participate in the site visits in the first year of the funding.

(7) The project coordinator will collaborate with the IHS HP/DP project officer and IHS contractor.

B. Indian Health Service Cooperative Agreement

(1) The IHS HP/DP Coordinator or designee will serve as project officer.

(2) The HP/DP program will provide consultation and technical assistance. Technical assistance includes program implementation, marketing, data management, evaluation, reporting, and sharing with other grantees.

(3) An IHS contractor (designated by HP/DP program) will be responsible for technical assistance oversight, monitoring reporting of projects, conference calls, and site visits. The IHS contractor serves as a technical liaison to the IHS HP/DP program and the HP/DP grantees.

(4) The IHS and the contractor will coordinate a training workshop for the project coordinators to share lessons learned, successes, challenges, and strategies to expand best/promising practices.

III. Eligibility Information

1. *Eligible Applicants must be one of the following as defined by 25 U.S.C. 1603*

- i. A Federally-recognized Indian Tribe 25 U.S.C. 1603(d);
- ii. Tribal organization 25 U.S.C. 1603(e);
- iii. Urban Indian organization as defined by 25 U.S.C. 1603(h). Applicants must provide proof of non-profit status with the application, e.g. 501(c)3.

2. *Cost Sharing or Matching*

Cost sharing or matching is not required

3. *Other Requirements*

• Late applications will be considered non-responsive. See Section "IV.3. Submission Dates and Times" for more information on deadlines.

• Tribal Resolution(s)—A resolution of the Indian Tribe served by the project should accompany the application submission. An Indian Tribe that is proposing a project affecting another Indian Tribe must include resolutions

from all affected Tribes to be served. Draft resolutions may be submitted in lieu of an official signed resolution. The applicant must state when the final resolution will be obtained and submitted. An official signed Tribal resolution is required prior to award date if the Tribe is selected for funding. The entity should submit the resolution (draft or final) prior to the application review date or the application will be considered incomplete and it will be returned without consideration.

IV. Application and Submission Information

1. Applicant package may be found in Grants.gov (www.grants.gov) or at http://www.ihs.gov/NonMedicalPrograms/gogp/gogp_funding.asp. Information regarding the electronic application process may be directed to Michelle G. Bulls, at (301) 443-6528 or Michelle.Bulls@ihs.gov. The entire application package is available at: <http://www.grants.gov/Apply>. Detailed application instructions for this announcement are downloadable on www.grants.gov.

2. Content and Form of Application Submission

A. All applications should

- (1) Be single-spaced.
- (2) Be typewritten.
- (3) Have consecutively numbered pages.
- (4) If unable to submit electronically, submit using a black type not smaller than 12 characters per one inch.
 - i. Submit on one side only of standard size 8½" x 11" paper.
 - ii. Do not tab, glue, or place in a plastic holder.

(5) Contain a narrative that does not exceed 20 typed pages that meets the other submission requirements below. The 20-page narrative should not include the standard forms, Tribal resolution(s), table of contents, budget, budget justifications, multi-year narratives, multi-year budget, multi-year budget justifications, and/or other appendix items.

Public Policy Requirements: All Federal-wide public policies apply to IHS grants with the exception of the Lobbying and Discrimination Policy.

B. Include in the application the following documents in the order presented

- (1) Standard Form 424, Application for Federal Assistance.
- (2) Standard Form 424A, Budget Information—Non-Construction Programs (pages 1-2).
- (3) Standard Form 424B, Assurances—Non-Construction

Programs front and back. The application shall contain assurances to the Secretary that the applicant will comply with program regulations, 42 CFR Part 136 Subpart H.

(4) Certification.

(5) Disclosure of Lobbying Activities.

(6) Project Abstract (may not exceed one typewritten page) which should present a summary view of “who-what-when-where-how-cost” to determine acceptability for review.

(7) Table of Contents with corresponding numbered pages.

(8) Project Narrative (not to exceed 20 typewritten pages).

(9) Categorical Budget Narrative and Budget Justification.

(10) Appendix Items.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 12 midnight Eastern Standard Time (EST) on July 17, 2009. If technical challenges arise and the applicant is unable to successfully complete the electronic application process, the applicant should contact Michelle G. Bulls, Grants Policy Staff Director at (301) 443-6528, at least fifteen days prior to the application deadline and advise of the difficulties their organization is experiencing. At that time, a determination will be made as to whether the organization is eligible to receive a waiver from the required submission process to submit a paper application which includes the original and 2 copies. Prior approval must be obtained from the Grants Policy Staff in writing allowing a paper submission. Applications not submitted through Grants.gov, without an approved waiver, may be returned to the applicant without review and consideration. Each applicant should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.

Extension of deadlines: IHS may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service, or in other rare cases. Determination to extend or waive deadline requirements rests with the Grants Management Officer, Division of Grants Operations (DGO). Late applications will be returned to the applicant without review or consideration. IHS will not acknowledge receipt of applications under this announcement.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

A. Pre-award costs are allowable pending prior approval from the awarding agency. However, in accordance with 45 CFR Part 74 all pre-award costs are incurred at the recipient's risk. The awarding office is under no obligation to reimburse such costs if for any reason the applicant does not receive an award or if the award to the recipient is less than anticipated.

B. Funds may be used to expand or enhance existing activities to accomplish the objectives of this program announcement. Funds may be used to pay for consultants, contractors, materials, resources, travel and associated expenses to implement and evaluate intervention activities such as those described under the “Activities” section of this announcement. Funds may not be used for direct patient care, diagnostic medical testing, patient rehabilitation, pharmaceutical purchases, facilities construction, or lobbying.

C. Each HP/DP award shall not exceed \$100,000 a year or a total of \$300,000 for 3 years.

D. The available funds are inclusive of direct and indirect costs.

E. Only one grant will be awarded per applicant.

6. Other Submission Requirements

A. *Electronic Transmission:* The preferred method for receipt of applications is electronic submission through Grants.gov. However, should any technical challenges arise regarding the submission, please contact Grants.gov Customer Support at (800) 518-4726 or e-mail your questions to support@grants.gov. The Contact Center hours of operation are Monday–Friday from 7 a.m. to 9 p.m. (Eastern Standard Time). The applicant must seek assistance at least fifteen days prior to the application deadline. Applicants that do not adhere to the timelines for Central Contractor Registry (CCR) and/or Grants.gov registration and/or request timely assistance with technical issues will not be a candidate for paper applications.

To submit an application electronically, please use the Grants.gov Web site, <http://www.grants.gov> and select the “Apply for Grants” link on the homepage. Download a copy of the application package on the Grants.gov Web site, complete it offline and then

upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to IHS.

Please be reminded of the following:

- Under the new IHS requirements, paper applications are not the preferred method. However, if you have technical problems submitting your application online, please contact Grants.gov Customer Support at: <http://www.grants.gov/CustomerSupport>.

- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver request from Grants Policy must be obtained.

- If it is determined that a formal waiver is necessary, the applicant must submit a request, in writing (e-mails are acceptable), to Michelle.Bulls@ihs.gov that includes a justification for the need to deviate from the standard electronic submission process. Upon receipt of approval, a hard copy application package must be downloaded by the applicant from Grants.gov, and sent directly to the Division of Grants Management/Operations (DGO), 801 Thompson Avenue, TMP 360, Rockville, MD 20852 by the due date, July 17, 2009.

- Upon entering the Grants.gov site, there is information available that outlines the requirements to the applicant regarding electronic submission of an application through Grants.gov, as well as the hours of operation. Applicants must not wait until the deadline date to begin the application process through Grants.gov as the registration process for CCR could take up to fifteen working days.

- To use Grants.gov, you, as the applicant, must have a Dun and Bradstreet Data Universal Numbering System (DUNS) Number and register in the CCR. You should allow a minimum of ten working days to complete CCR registration. See below on how to apply.

- You must submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.

- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by IHS.

- Your application must comply with any page limitation requirements described in the program announcement.

- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGO will retrieve your application from Grants.gov. The

DGO will not notify applicants that the application has been received.

- You may access the electronic application for this program on <http://www.Grants.gov>.

- You may search for the downloadable application package using the CFDA number (93.443) or the Funding Opportunity Number (HHS-2009-IHS-HPDP-0001). Both numbers are identified in the heading of this announcement.

- The applicant must provide the Funding Opportunity Number: HHS-2009-IHS-HPDP-0001.

E-mail applications will not be accepted under this announcement.

B. DUNS Number:

Beginning October 1, 2003, applicants were required to have a Dun and Bradstreet (DUNS) number. The DUNS number is a nine-digit identification number which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access <http://www.dnb.com/us/> or call (866) 705-5711. Interested parties may wish to obtain their DUNS number by phone to expedite the process. Applications submitted electronically must also be registered with the CCR. A DUNS number is required before CCR registration can be completed. Many organizations may already have a DUNS number. Please use the telephone number listed above to investigate whether or not your organization has a DUNS number. Registration with the CCR is free of charge. Applicants may register by calling (888) 227-2423. Applicants must also be registered with the CCR to submit electronically. Please review and complete the CCR "Registration Worksheet" located in the appendix of the HP/DP application package or on <http://www.Grants.gov/CCRRegister>. More detailed information regarding these registration processes can be found at the <http://www.Grants.gov> Web site.

C. Other Requirements:

(1) Please number pages consecutively from beginning to end so that information can be located easily during review of the application. Appendices should be labeled and separated from the Project Narrative and Budget Section, and the pages should be numbered to continue the sequence.

(2) Abstract—describing the overall project, intervention area and population size, partnerships, intervention strategies, and major outcomes. The abstract is limited to 1 page.

(3) Table of Contents—with page numbers for each of the following sections.

(4) Application Narrative—the application narrative (excluding the appendices) must be no more than 20 pages, single-spaced, printed on one side, with one-inch margins, and black type not smaller than 12 characters per one inch. You MUST respond to every question/request in each category of the Project Narrative individually. You MUST retype the bold portion of every section header, question or request directly above each individual response you provide. Be sure to place all responses and required information in the correct section or they will not be considered or scored. If your narrative exceeds the page limit, only the first 20 pages will be reviewed. The narrative should include background and needs; intervention plan (including a work plan table); monitoring and evaluation; organizational capabilities and qualifications; communication and information sharing. The narrative should include a summary of the organizations that have submitted letters of support, resolution, and Memorandum of Understanding (MOU) (as appropriate) from the local key partners specifying their roles, responsibilities, and resources. Actual letters, resolution, and MOU should be placed in the appendix.

(5) Line-Item Budget Narrative and Budget Justification—detailed budget by line items and a detailed budget narrative justification explaining why each budget line item is necessary/relevant to the proposed project (personnel, supplies, equipment, training, etc.). You may include in-kind services to carry out proposed plans.

(6) Appendix—the following additional information may be included in the appendix. The appendices will not be counted toward the narrative page limit. Appendices are limited to the following items:

a. Multi-Year Categorical Budgets and Multi-Year Budget Narrative Justifications.

b. Categorical Budget Line-Items and Budget Narrative Justification.

c. Tribal Resolution(s) or Health Board Resolution(s).

d. Organizational Chart(s).

e. Letters of Support, Resolution, or Memorandum of Understanding.

f. Resumes of key staff that reflect current duties.

g. Indirect Cost Rate Agreement.

h. Proposed Contractual or Consultant Scope of Work, if applicable.

i. Resumes or Qualifications of Contractors or Consultants, if applicable.

V. Application Review Information

1. Criteria

You are required to provide measurable objectives related to the performance goals and intended outcome. Applicants will be evaluated and rated according to weights assigned to each section as noted in parentheses.

A. Abstract. (no points)

B. Background and Needs. (Total 20 points)

- Is the proposed intervention and the extent of the problem clearly and thoroughly described, including the targeted population served and geographic location of the proposed project? (5 points) *Please retype this heading in your responses.*

- Are data provided to substantiate the existing burden and/or disparities of chronic diseases and conditions in the target population to be served? (5 points) *Please retype this heading in your responses.*

- Are assets and barriers to successful program implementation identified? (5 points) *Please retype this heading in your responses.*

- How well are existing resources used to complement or contribute to the effort planned in the proposal? (5 points) *Please retype this heading in your responses.*

C. Intervention Plan. (Total 30 points)

- Does the plan include objectives, strategies, and activities that are specific, realistic, measurable, and time phased related to identified needs and gaps in existing programs? (10 points) *Please retype this heading in your responses.*

- Does the proposed plan include intervention strategies to address risk factors contributing to chronic conditions and diseases? (5 points) *Please retype this heading in your responses.*

- How well does the plan reflect local capacity to provide, improve, or expand services that address the needs of the target population? (5 points) *Please retype this heading in your responses.*

- Does the proposed plan include the action steps in a time line that identify who will be responsible to coordinate the project, develop and collect the evaluation, and provide training if any? Provide the work plan/time line in the appendix. (5 points) *Please retype this heading in your responses.*

- If the plan includes consultants or contractors, does the plan include educational requirements, work experience and qualifications, expected work products to be delivered and a time line? If a potential consultant/

contractor has already been identified, please include a resume in the appendix. (5 points) *Please retype this heading in your responses.*

- You must present the details of your plan in table format as shown

below. You may use 10 pt Times New Roman font inside the table (for the rest of the application you must use 12 pt). The table should fall within the text of this section (not an attachment). NOTE:

this table counts toward your overall page limit. Please develop a multi year work plan that includes the goal, objective, target date, responsible party, output and outcome evaluation.

GRANT IMPLEMENTATION ACTION PLAN

Activity	Responsible party(s)	Target date	Output (e.g., how you know it's done)	Outcome (e.g., the expected impact)
Goal: Objective 1: xxx xxx Objective 2:	xxx xxx	xxx xxx	xxx xxx	xxx xxx

D. Plan for Monitoring and Program Evaluation. (Total 20 points)

- Core Measurement Requirement: As a HP/DP grantee, does your plan reflect the required pertinent measures bulleted below: (5 points) *Please retype this heading in your responses.*

- (1) Baseline data of tobacco and/or alcohol use among targeted population;
- (2) Perception of alcohol/tobacco use among youth and adults;
- (3) Frequency of fruits and vegetable consumption within the past 30 days;
- (4) Frequency of physical education provided in the schools or afterschool programs;
- (5) Policies pertaining to tobacco, physical education, worksite wellness, vending machines offering healthier snacks and beverages; and
- (6) Self-reported physical activity level within the past 30 days.

- Does the plan describe appropriate data sources to monitor and track changes in community capacity; the extent to which interventions reach populations at risk; changes in risk factors; and changes in program efficiency? (5 points) *Please retype this heading in your responses.*

- Does the applicant demonstrate the capability to conduct surveillance and program evaluation, access and analyze data sources, and use the evaluation to strengthen the program? (5 points) *Please retype this heading in your responses.*

- Does the applicant describe how the project is anticipated to improve specific performance measures and outcomes compared to baseline performance? (5 points) *Please retype this heading in your responses.*

E. Organizational Capabilities, Qualifications and Collaboration. (Total 10 points)

- Does the plan include the organizational structure of the Tribe/ Tribal or Urban Indian organization? (1 point) *Please retype this heading in your responses.*

- Does the plan include the ability of the organization to manage the proposed plans, including information on similar sized projects in scope as well as other grants and projects successfully completed? (2 points) *Please retype this heading in your responses.*

- Does the applicant include key personnel who will work on the project? Position descriptions should clearly describe each position and duties, qualifications and experiences related to the proposed plan. Resumes must indicate the staff qualifications to carry out the proposed plan and activities. (2 points) *Please retype this heading in your responses.*

- How will the plan be sustained after the grant ends? (2 points) *Please retype this heading in your responses.*

- Does the applicant describe key partners specifying their roles, responsibilities, and resources (MOU, Letters of Support are provided in the appendix). (3 points) *Please retype this heading in your responses.*

F. Communication and Information Sharing. (Total 10 points)

- Does the applicant describe plans to share experiences, strategies, and results with other interested communities and partners? (5 points) *Please retype this heading in your responses.*

- Does the applicant describe plans to ensure effective and timely communication and exchange of information, experiences and results through mechanisms such as the Internet, workshops, and other methods? (5 points) *Please retype this heading in your responses.*

G. Budget Justification. (Total 10 points)

- Is the budget reasonable and consistent with the proposed activities and intent of the program? (4 points) *Please retype this heading in your responses.*

- Does the budget narrative justification explain each line item and the relevancy to the proposed plan? (4

points) *Please retype this heading in your responses.*

- Does the budget include in-kind services? (2 points) *Please retype this heading in your responses.*

2. Review and Selection Process

Applications will be reviewed for timeliness and completeness by the DGO and for responsiveness by the HP/ DP staff. Late and incomplete applications will be considered ineligible and will be returned to the applicant without review. Applications will be evaluated and rated based on the evaluation criteria listed in Section V.1. Applicants will be notified if their application did not meet submission requirements. In addition to the above criteria/requirements, applications are considered according to the following:

A. Proposals will be reviewed for merit by the Objective Review Committee consisting of Federal and non-Federal reviewers appointed by the IHS.

B. The technical review process ensures the selection of quality projects in a national competition for limited funding. After review of the applications, rating scores will be ranked, and the applications with the highest rating scores will be recommended for funding. Applicants scoring below 60 points will be disapproved.

3. Anticipated Announcement and Award Dates

Earliest anticipated award date is August 3, 2009.

VI. Award Administration Information

1. Award Notices

Notification: July 28, 2009

The Notice of Award (NoA) will be initiated by the DGO and will be mailed via postal mail on or before August 3, 2009 to each entity that is approved for funding under this announcement. The NoA will be signed by the Grants

Management Officer and this is the authorizing document for which funds are dispersed to the approved entities. The NoA will serve as the official notification of the grant award and will reflect the amount of Federal financial funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period. The NoA is the legally binding document. Applicants who are approved but unfunded or disapproved based on their Objective Review score will receive a copy of the Executive Summary which identifies the weaknesses and strengths of the application submitted.

2. Administrative and National Policy Requirements

A. 45 CFR Part 92, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments," or 45 CFR Part 74, "Uniform Administration Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Non Profit Organizations, and Commercial Organizations."

B. Appropriate Cost Principles: OMB Circular A-87, "State, Local, and Indian Tribal Governments," (Title 2 Part 225) or OMB Circular A-122, "Non-Profit Organizations." (Title 2 Part 230).

C. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

D. Grants Policy Guidance: HHS Grants Policy Statement 01/2007.

Indirect Costs:

This section applies to all grant recipients that request indirect costs in their application. In accordance with HHS Grants Policy Statement, Part II-27, IHS requires applicants to have a current indirect cost rate agreement in place prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate means the rate covering the applicable activities and the award budget period. If the current rate is not on file with the awarding office, the award shall include funds for reimbursement of indirect costs. However, the indirect cost portion will remain restricted until the current rate is provided to the Division of Grant Operations (DGO).

Generally, indirect cost rates for IHS Tribal organization grantees are negotiated with the Division of Cost Allocation at <http://rates.psc.gov/>, and indirect cost rates that are for IHS-funded, Federally-recognized Tribes are negotiated with the Department of Interior. If your organization has

questions regarding the indirect cost policy, please contact the DGO at (301) 443-5204.

3. Reporting

A. Progress Report—Program progress reports are required semi-annually by March 1 and September 1 of each funding year. These reports will include a brief comparison of actual accomplishments to the goals established for the period, reasons for slippage (if applicable), and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Status Report—Annual financial status reports (FSR) must be submitted 90 days after the end of each Budget Period. Final FSRs are due within 90 days of expiration of the project period. Standard Form 269 (long form) can be downloaded from: <http://www.whitehouse.gov/omb/grants/sf269.pdf> for financial reporting.

Failure to submit required reports may result in one or both of the following:

A. The imposition of special award provisions; and

B. The withholding of support of other eligible projects or activities. This applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

VII. Agency Contact(s)

1. Information regarding the program or grants management related inquiries may be obtained from either of the following persons:

Program Contact: Ms. Alberta Becenti, Division of Clinical & Preventive Services, Indian Health Service, 5300 Homestead Rd., NE., Albuquerque, New Mexico 87110, *Phone:* (301) 443-4305.

Grants Policy Contact: Ms. Sylvia Ryan, Division of Grants Management/Operations, Indian Health Service, 801 Thompson Avenue, Suite 320, Rockville, Maryland 20852, *Phone:* (301) 443-5204.

The Public Health Service (PHS) strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the

physical and mental health of the American people.

Dated: June 3, 2009.

Randy Grinnell,

Deputy Director, Indian Health Service.

[FR Doc. E9-14046 Filed 6-15-09; 8:45 am]

BILLING CODE 4165-16-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I-687, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review Form I-687, Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act; OMB Control No. 1615-0090.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 10, 2009, at 74 FR 10262, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 16, 2009. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, NW., Washington, DC 20529-2210. Comments may also be submitted to DHS via facsimile to 202-272-8352 or via e-mail at rfs.regs@dhs.gov, and to the OMB USCIS Desk Officer via facsimile at 202-395-6974 or via e-mail at oir_submission@omb.eop.gov.

When submitting comments by e-mail, please make sure to add OMB Control Number 1615-0090 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I-687. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The collection of information on Form I-687 is required to verify the applicant's eligibility for temporary status, and if the applicant is deemed eligible, to grant him or her the benefit sought.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at 1 hour and 10 minutes (1.16 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 116,000 annual burden hours.

If you need a copy of the proposed information collection instrument, or additional information, please visit the Web site at: <http://www.regulations.gov/search/index.jsp>.

If additional information is required contact: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529-2210, (202) 272-8377.

Dated: June 10, 2009.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. E9-14134 Filed 6-15-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

Immigration and Customs Enforcement

Agency Information Collection Activities: New Information Collection; Comment Request

ACTION: 60-Day Notice of New Information Collection; Electronic Bonds Online (eBonds) Access.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), will be submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 17, 2009.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Joseph M. Gerhart, Chief, Records Management Branch, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., Room 3138, Washington, DC 20536; (202) 732-6337.

Comments are encouraged and will be accepted for sixty days until August 17, 2009. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New information collection.

(2) *Title of the Form/Collection:* Electronic Bonds Online (eBonds) Access.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I-352SA (Surety eBonds Access Application and Agreement); Form I-352RA (eBonds Rules of Behavior Agreement); U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other non-profit. The information taken in this collection is necessary for U.S. Immigration and Customs Enforcement (ICE) to grant access to eBonds and to notify the public of the duties and responsibilities associated with accessing eBonds. The I-352SA and the I-352RA are the two instruments used to collect the information associated with this collection. The I-352SA is to be completed by a Surety that currently holds a Certificate of Authority to act as a Surety on Federal bonds and details the requirements for accessing eBonds as well as the documentation, in addition to the I-352SA and I-352RA, which the Surety must submit prior to being granted access to eBonds. The I-352RA provides notification that eBonds is a Federal government computer system and as such users must abide by certain conduct guidelines to access eBonds and the consequences if such guidelines are not followed.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

Requests for a copy of the proposed information collection instruments, with instructions; or inquiries for additional information should be

requested via e-mail to: forms.ice@dhs.gov with "Electronic Bonds Online (eBonds)Access" in the subject line.

Dated: June 10, 2009.

Lee Shirkey,

*Acting Chief, Records Management Branch,
U.S. Immigration and Customs Enforcement,
Department of Homeland Security.*

[FR Doc. E9-14074 Filed 6-15-09; 8:45 am]

BILLING CODE 9111-28-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form G-639, Revision of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form G-639, Freedom of Information/Privacy Act Request; OMB Control No. 1615-0102.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 23, 2009, at 74 FR 12145, allowing for a 60-day public comment period. USCIS did not receive any comments.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 16, 2009. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529-2210. Comments may also be submitted to DHS via facsimile to 202-272-8352 or via e-mail at rfs.regs@dhs.gov, and to the OMB USCIS Desk Officer via facsimile at 202-395-6974 or via e-mail at oir_submission@omb.eop.gov.

When submitting comments by e-mail, please make sure to add OMB Control No. 1615-0102 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved information collection.

(2) *Title of the Form/Collection:* Freedom of Information/Privacy Act Request.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G-639. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is provided as a convenient means for persons to provide data necessary for identification of a particular record desired under FOIA/PA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at 15 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 25,000 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: <http://www.regulations.gov/fdmspublic/component/main>.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW.,

Washington, DC 20529-2210, telephone number 202-272-8377.

Dated: June 11, 2009.

Stephen Tarragon,

*Deputy Chief, Regulatory Products Division,
U.S. Citizenship and Immigration Services,
Department of Homeland Security.*

[FR Doc. E9-14144 Filed 6-15-09; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5262-FA-01]

Announcement of Funding Awards for the Emergency Capital Repair Grant Program Fiscal Year 2009

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of Emergency Capital Repair Grant funding decisions made by the Department in FY 2009. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Mr. Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, 451 7th Street, SW., Washington, DC 20410; telephone (202) 708-3000 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1-800-877-8339. For general information on this and other HUD programs, visit the HUD Web site at <http://www.hud.gov>.

SUPPLEMENTARY INFORMATION: The Emergency Capital Repair Grants Program is authorized by Section 202(b) of the Housing Act of 1959 (12 U.S.C. 1701q-2). Section 202b was amended to provide grants for "substantial capital repairs to eligible multifamily projects with elderly tenants that are needed to rehabilitate, modernize, or retrofit aging structures, common areas or individual dwelling units." HUD accepted applications on a first-come, first-serve basis and awarded emergency capital repair grants until available amounts were expended.

The Catalog of Federal Domestic Assistance number for this program is 14.315.

The Emergency Capital Repair Grant is designed to provide funds to make emergency capital repairs to eligible

multifamily projects owned by private nonprofit entities designated for occupancy by elderly tenants. The capital repair needs must relate to items that present an immediate threat to the health, safety, and quality of life of the tenants. The intent of these grants is to provide one-time assistance for emergency items that could not be

absorbed within the project's operating budget and other project resources.

A total of \$8,763,592 was awarded to 36 projects and 3,340 units. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees

and amounts of the awards in Appendix A of this document.

Dated: June 8, 2009.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner, H.

Appendix A

EMERGENCY CAPITAL REPAIR GRANT AWARDEES FY 2009

Name of owner/sponsor	Name of development	City	State	Number of units	Dollar amount awarded	Repairs funded
Four Freedoms House, Seattle, Inc.	Four Freedoms House, Seattle.	Seattle	WA	302	\$500,000	Replaced galvanized plumbing system and hot water storage tanks.
Sioux Falls Environmental Access, Inc.	Rosewood Heights	Rock Rapids	IA	56	465,554	Replaced heating and cooling systems and windows.
Kidron, Inc	Kidron Bethel Village ...	North Newton	KS	55	389,822	Replaced roof, furnace, air conditioning, windows and patio doors.
B'nai B'rith Covenant House, Inc.	Covenant House	St. Louis	MO	183	108,475	Replaced obsolete roof air conditioners and boilers.
Sycamore Terrace Corp Seton Housing, Inc	Sycamore Terrace	Upland	CA	100	85,682	Replaced elevators.
	Seton Housing-Zanesville.	Zanesville	OH	45	52,150	Replaced roof and emergency call systems.
Flint Heights Senior Citizen Apartments Association.	Flint Heights Senior Citizens Apartments.	Flint	MI	163	273,601	Replaced PTAC units, water heaters, and holding tank.
Emerson Center, Inc	Emerson Center Apartments.	Lexington	KY	178	135,245	Replaced roof membrane and flashing along parapet walls.
Shepherd Place, Inc	Shepherd Place Apartments.	Carlisle	KY	20	19,950	Replaced roof and deteriorated drive.
Riverview Apartments, Inc.	Riverview Towers I	Pittsburgh	PA	84	198,660	Replaced elevators.
Riverview Apartments, Inc.	Riverview Towers II	Pittsburgh	PA	137	306,819	Replaced elevators.
Sioux Falls Environmental Access, Inc.	Lakeland Park Apartments.	Clear Lake	IA	56	465,554	Replaced heating and cooling systems and windows.
Christ Church Apartments, Inc.	Christ Church Apartments.	Lexington	KY	168	373,240	Replaced 217 HVAC units.
Sioux Falls Environmental Access, Inc.	Kingston Apartments ...	Kingsley	IA	24	246,986	Replaced heating and cooling systems and windows.
Sioux Falls Environmental Access, Inc.	Woodland Apartments	Woodbine	IA	48	487,399	Replaced heating and cooling systems and windows.
Horace Bushnell Congregate Homes, Inc.	Horace Bushnell Congregate Homes.	Hartford	CT	60	430,885	Replaced the existing boiler system.
Sioux Falls Environmental Access, Inc.	Ridgewood Apartments	Akron	IA	36	347,486	Replaced heating and cooling systems and windows.
Sioux Falls Environmental Access, Inc.	Somerset	Holstein	IA	24	246,986	Replaced heating and cooling systems and windows.
East Salem Homes, Inc	University Place Apartments.	Winston-Salem	NC	97	340,421	Repaired and replaced exterior brick masonry.
Methouse, Inc	Methouse	Munhall	PA	113	79,271	Replaced hydraulic cylinder for elevator.
Bugbee Housing Development Fund Co., Inc.	Bugbee Apartments	Watertown	NY	35	405,000	Replaced elevator.
Four Freedoms House of Miami Beach, Inc.	Four Freedoms House of Miami Beach.	Miami Beach	FL	210	120,282	Replaced galvanized water pipes.
Shalom Housing Inc	Shalom Apartments	Warwick	RI	101	41,500	Replaced leaking roof.

EMERGENCY CAPITAL REPAIR GRANT AWARDEES FY 2009—Continued

Name of owner/sponsor	Name of development	City	State	Number of units	Dollar amount awarded	Repairs funded
Vale Park Psychiatric Services, Inc.	North Vale Apartments	Valparaiso	IN	15	144,894	Replaced roof, furnace, and water heaters.
Golden Manor, Inc	Golden Manor I	Torrington	WY	26	143,328	Replaced tubs, ranges and bathroom sinks.
Stockton YMI Elderly Housing.	Casa Manana Inn	Stockton	CA	163	143,656	Replaced elevator and back-up generator.
Christopher Homes of Strong, Inc.	Christopher Homes of Strong.	Strong	AR	20	32,511	Replaced roof, windows and HVAC.
Christopher Homes of North Little Rock, Inc.	Christopher Homes of North Little Rock.	North Little Rock	AR	56	344,660	Replaced roof, windows and HVAC and sidewalks.
Christopher Homes of Hot Springs, Inc.	Christopher Homes of Hot Springs.	Hot Springs	AR	21	66,607	Replaced roof, windows and HVAC.
Chapel House of Louisville, Inc.	Chapel House of Louisville.	Louisville	KY	225	457,426	Relined existing sewer lines.
North Penn Comprehensive Health Services.	Sullivan Terrace	Dushore	PA	78	381,000	Replaced elevator.
Mary Grove Non-profit Housing Corp.	Mary Grove Apartments AKA McGivney Bethune.	Detroit	MI	80	88,199	Replace roof, gutters and downspouts.
West Virginia Homes Inc.	Brooks Manor	Charleston	WV	57	322,000	Replaced heat pumps, elevator, front door, roof and windows.
Community Housing Concepts Sheraton Towers, LP.	Sheraton Towers	Highpoint	NC	97	300,000	Replaced two elevators.
Harriet Tubman Terrace, Inc.	Harriet Tubman Terrace.	Pittsburgh	PA	56	125,917	Replaced roof, boiler, and trash compactor.
Madison Heights Non-Profit Housing Corp.	Madison Heights Cooperative Apts.	Madison Heights	MI	151	92,426	Replaced roof.

[FR Doc. E9-14119 Filed 6-15-09; 8:45 am]
 BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Renewal of Information Collection: OMB Control Number 1094-0001, Alternatives Process in Hydropower Licensing

AGENCY: Office of the Secretary, Office of Environmental Policy and Compliance, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Environmental Policy and Compliance, Office of the Secretary, Department of the Interior is announcing its intention to request renewal approval for the collection of information for Alternatives Process in Hydropower Licensing. This collection request has been forwarded to the Office of Management and Budget (OMB) for review and 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 request, but may respond after 30 days; therefore, public comments should be submitted to OMB by July 16, 2009, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer (1094-0001), by telefax at (202) 395-5806 or via e-mail to OIRA_Docket@omb.eop.gov. Also, please send a copy of your comments to Linda S. Thomas, Office of the Secretary Information Collection Clearance Officer, U.S. Department of the Interior, MS 116-SIB, 1849 C Street, NW., Washington, DC 20240, or send an e-mail to Linda_Thomas@nbc.gov. Additionally, you may telefax them to her at (202) 219-2374. Individuals providing comments should reference Alternatives Process in Hydropower Licensing.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact Linda S. Thomas at (202) 208-7294. You may

also contact Ms. Thomas electronically at Linda_Thomas@nbc.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, 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)).

On November 14, 2005, the Departments of Agriculture, the Interior, and Commerce published regulations at 7 CFR part 1, 43 CFR part 45, and 50 CFR part 221, to implement section 241 of the Energy Policy Act of 2005 (EPA), Public Law 109-58, which the President signed into law on August 8, 2005. Section 241 of the EPA had added section 33 to the Federal Power Act (FPA), 16 U.S.C. 823d, that allowed the license applicant or any other party to the license proceeding to propose an alternative to a condition or prescription that one or more of the Departments develop for inclusion in a hydropower license issued by the Federal Energy Regulatory Commission (FERC) under

the FPA. This provision required that the Departments of Agriculture, the Interior and Commerce collect the information covered by 1094-0001.

Under FPA section 33, the Secretary of the Department involved must accept the proposed alternative if the Secretary determines, based on substantial evidence provided by a party to the license proceeding or otherwise available to the Secretary, (a) that the alternative condition provides for the adequate protection and utilization of the reservation, or that the alternative prescription will be no less protective than the fishway initially proposed by the Secretary, and (b) that the alternative will either cost significantly less to implement or result in improved operation of the project works for electricity production.

In order to make this determination, the regulations require that all of the following information be collected: (1) A description of the alternative, in an equivalent level of detail to the Department's preliminary condition or prescription; (2) an explanation of how the alternative: (i) If a condition, will provide for the adequate protection and utilization of the reservation; or (ii) if a prescription, will be no less protective than the fishway prescribed by the bureau; (3) an explanation of how the alternative, as compared to the preliminary condition or prescription, will: (i) Cost significantly less to implement; or (ii) result in improved operation of the project works for electricity production; (4) an explanation of how the alternative or revised alternative will affect: (i) Energy supply, distribution, cost, and use; (ii) flood control; (iii) navigation; (iv) water supply; (v) air quality; and (vi) other aspects of environmental quality; and (5) specific citations to any scientific studies, literature, and other documented information relied on to support the proposal.

This notice of proposed renewal of an existing information collection is being published by the Office of Environmental Policy and Compliance, Department of the Interior, on behalf of all three Departments, and the data provided below covers anticipated responses (alternative conditions/prescriptions and associated information) for all three Departments.

II. Data

(1) *Title:* 7 CFR Part 1; 43 CFR Part 45; 50 CFR Part 221; the Alternatives Process in Hydropower Licensing.

OMB Control Number: 1094-0001.

Current Expiration Date: June 30, 2009.

Type of Review: Information Collection Renewal.

Affected Entities: Business or for-profit entities.

Estimated annual number of respondents: 5.

Frequency of responses: Once per alternative proposed.

(2) *Annual reporting and recordkeeping burden:*

Total annual reporting per response: 500 hours.

Total number of estimated responses: 5.

Total annual reporting: 2,500 hours.

(3) *Description of the need and use of the information:* The purpose of this information collection is to provide an opportunity for license parties to propose an alternative condition or prescription to that imposed by the Federal Government in the hydropower licensing process.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collection of information was published on April 10, 2009 (74 FR 16416). No comments were received. This notice provides the public with an additional 30 days in which to comment on the proposed information collection activity.

III. Request for Comments

The Departments invite comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden of the collection and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information techniques.

"Burden" means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review

the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the Office of Environmental Policy and Compliance by calling (202) 208-3891. A valid picture identification is required for entry into the Department of the Interior.

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 Office of Management and Budget control number.

Mary Josie Blanchard,

Deputy Director, Office of Environmental Policy and Compliance.

[FR Doc. E9-14086 Filed 6-15-09; 8:45 am]

BILLING CODE 4310-79-P

DEPARTMENT OF THE INTERIOR

Notice of Tribal Consultation Meetings

AGENCY: Office of the Special Trustee for American Indians, Interior.

ACTION: Notice of Tribal Consultation Meetings.

SUMMARY: Notice is hereby given of one-day Tribal Consultation Sessions to be held between the Department of the Interior, Office of the Special Trustee for American Indians (DOI/OST) and tribal governments interested in, or currently operating the real estate appraisal services program. The purpose of these consultation sessions is to discuss ideas in developing new tribal share allocation formulas (TSAFs) to be used to apportion funds to tribes that perform the appraisal program pursuant to Public Law 93-638 (the Indian Self-Determination and Education Assistance Act of 1975, as amended) [25 U.S.C. 450j-1(a)].

DATES: See **SUPPLEMENTARY INFORMATION.**

ADDRESSES: See **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Debbie Meisner, Director Administrative Operations, Office of Appraisal Services at (505) 816-1318 or Debbie_Meisner@ost.doi.gov. Detailed information on the project background,

schedule and locations will be posted on the DOI/OST Web site at <http://www.ost.doi.gov>.

SUPPLEMENTARY INFORMATION: The Department of the Interior, Office of the Special Trustee for American Indians (DOI/OST) invites tribal government leaders to participate in a series of tribal consultation sessions.

Dates and Locations: The tribal consultation sessions will be held on the following dates and in the following locations:

- (1) June 30, 2009 in Oklahoma City, OK.
- (2) July 14, 2009 in Rapid City, SD.
- (3) July 29, 2009 in Portland, OR.
- (4) August 4, 2009 in Billings, MT.
- (5) August 18, 2009 in Albuquerque, NM.

The purpose of the consultation sessions is to discuss ideas in developing new tribal share allocation formulas that will be used to apportion funds for tribes performing, or interested in performing, the appraisal program pursuant to Public Law 93-638 contracts and compacts. These formulas will ensure uniformity and transparency in determining tribal shares and funding residual for the inherent federal functions.

A report of each consultation session will be prepared and made available within 90 days of the consultation to all tribal governments that currently compact or contract the appraisal program. Tribes wishing to submit written testimony for the consultation report should send it to Debbie Meisner, Director Administrative Operations, Office of Appraisal Services at Debbie_Meisner@ost.doi.gov, either prior to the consultation session or by September 18, 2009. Please note that only written testimony submitted to DOI/OST will be included in the report, as an appendix. Testimony and comments made orally will be summarized in the report without attribution, along with topics of concern and recommendations.

Dated: June 10, 2009.

Margaret Williams,

Deputy Special Trustee/Trust Accountability.
[FR Doc. E9-14108 Filed 6-15-09; 8:45 am]

BILLING CODE 4310-2W-P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

Agency Information Collection Activities: Pompeys Pillar Visitor Survey

AGENCY: U.S. Geological Survey (USGS).

ACTION: Notice of a new information collection.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB a new information collection request (ICR) for approval of the paperwork requirements for an on-site visitor survey to be conducted at Pompeys Pillar National Monument in Billings, Montana. This notice provides the public an opportunity to comment on the paperwork burden of this project.

DATES: You must submit comments on or before July 16, 2009.

ADDRESSES: Please submit written comments on this information collection directly to the Office of Management and Budget (OMB) Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via e-mail [OIRA_DOCKET@omb.eop.gov]; or fax 202-395-5806; and identify your submission as 1028-NEW. Please also submit a copy of your written comments to Phadrea Ponds, USGS Information Collection Clearance Officer, 2150-C Center Avenue, Fort Collins, CO 80525 (mail); (970) 226-9230 (fax); or pponds@usgs.gov (e-mail). Please reference Information Collection 1028-NEW, Pompeys Pillar in the subject line.

FOR FURTHER INFORMATION CONTACT: Lynne Koontz by mail at U.S. Geological Survey, 2150-C Center Avenue, Fort Collins, CO 80526, or by telephone at (970) 226-9384.

SUPPLEMENTARY INFORMATION:

I. Abstract

The USGS is working with the BLM Montana State office to conduct a survey of visitors to Pompeys Pillar National Monument. The information collected will be used by BLM to understand the spending trends of PPNM visitors in the surrounding local communities. This information will also be used to calculate the regional employment and income effects of PPNM visitor spending for the BLM Resource Management Plan analysis. Collection of these data is necessary for a rigorous and objective economic analysis that meets the "hard look" doctrine that has emerged from case law related to NEPA and to meet internal guidelines for credible economic analysis. The USGS will conduct an on-site survey of visitors to PPNM during the summer and fall visitation season (mid July-September).

II. Data

OMB Control Number: None. This is a new collection.

Title: Pompeys Pillar Visitor Survey.

Respondent Obligation: Voluntary.

Frequency of Collection: This is a one-time collection.

Estimated Number and Description of Respondents: Visitors of Pompeys Pillar National Monument.

Estimated Number of Annual Responses: 630.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 91 hours. We will contact 750 people exiting the recreation area. We anticipate an 80% response rate. We estimate each intercept survey will average 9 minutes per response (600 visitors). We also estimate that it will take 2 minutes per response to respond to three questions of a sample of 30 visitors who decline to take the written survey. These times includes the time for receiving instructions and completing the survey.

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: There are no "non-hour cost" burdens associated with this collection of information.

III. Request for Comments

On February 6, 2009, we published a **Federal Register** notice (74 FR 6305) soliciting comments announcing that we would submit this information to OMB for approval. The comment period closed on April 7, 2009. We did not receive any comments in response to that notice.

We again invite comments concerning this ICR on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. 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: June 9, 2009

Sue Haseltine,

Associate Director for Biology.

[FR Doc. E9-14155 Filed 6-15-09; 8:45 am]

BILLING CODE 4311-AM-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-IA-2009-N0119; 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 July 16, 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: Hidden Harbor Marine Environmental Project, The Turtle Hospital, Marathon, FL, PRT-207047

The applicant requests a permit to export five green sea turtles (*Chelonia*

mydas), one male and four immature animals, to Weymouth Sea Life Adventure Park and Marine Sanctuary, Dorset, United Kingdom, for the purpose of enhancement of the survival of the species.

Applicant: Konstantin Khrapko, Beth Israel Deaconess Medical Center, Boston, MA, PRT-215297

The applicant requests a permit to acquire from Coriell Institute of Medical Research, Camden, NJ, in interstate commerce fibroblast cell line cultures from bonobos (*Pan paniscus*) for the purpose of scientific research.

Applicant: Saint Louis Zoo, St. Louis, MO, PRT-201169

The applicant requests a permit to import one male and two female captive-born horned guans (*Oreophasis derbianus*) from African Safari Park, Puebla, Mexico, for the purpose of enhancement of the species through captive propagation and conservation education.

Applicant: Burke Museum, Seattle, WA, PRT-714601

The applicant requests renewal of their permit to export and re-import non-living museum specimens of endangered and threatened species of animals previously accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a 5-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: Brian H. Welker, Fulshear, TX, PRT-213427

Applicant: Donald E. Black, Saint Clair Shores, MI, PRT-209120

Applicant: William P. Weedon, Olivia, NC, PRT-211300

Dated: June 5, 2009

Lisa J. Lierheimer

Senior Permit Biologist, Branch of Permits,
Division of Management Authority

[FR Doc. E9-14054 Filed 6-15-09; 8:45 am]

BILLING CODE 4310-55-S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-IA-2009-N0069; 96300-1671-0000-P5]

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species and/or marine mammals.

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 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: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

ENDANGERED SPECIES

Permit number	Applicant	Receipt of application <i>Federal Register</i> notice	Permit issuance date
152122	Univ. of Texas, Dept. of Anthropology	72 FR 37039; July 6, 2007	Dec. 24, 2008
162945	Anthony J. Carter	73 FR 79155; Dec. 24, 2008	Jan. 28, 2009
166590	Scott J. Poole	73 FR 5206; Jan. 29, 2008	April 9, 2008
170054	Patrick J. Foley	73 FR 2937; Jan. 16, 2008	Feb. 19, 2008
170351	Benjamin H. LeForce	73 FR 5206; Jan. 29, 2008	April 9, 2008
172526	James L. Holzhauser	73 FR 5206; Jan. 29, 2008	Feb. 28, 2008
173461	Orlando Deandar	73 FR 10283; Feb. 26, 2008	April 2, 2008
174402	Jay R. Bollinger	73 FR 21980; April 23, 2008	June 4, 2008
175457	Bruce L. Batory	73 FR 14266; March 17, 2008	April 28, 2008
176078	Kevin D. Smith	73 FR 21981; April 23, 2008	June 11, 2008
177153	Thomas E. Ferry	73 FR 21980; April 23, 2008	June 4, 2008
177238	Mark L. Pease	73 FR 21981; April 23, 2008	June 11, 2008
177261	Jason K. Bruce	73 FR 18808; April 7, 2008	May 8, 2008
177995	Herbert J. Mueller	73 FR 18809; April 7, 2008	May 8, 2008
178000	Oral E. Micham	73 FR 23266; April 29, 2008	June 4, 2008
178714	George D. Cook, Jr.	73 FR 21981; April 23, 2008	June 11, 2008
178716	Eldon R. Bell	73 FR 23266; April 29, 2008	May 29, 2008
178717	Gerald L. Bridges	73 FR 23266; April 29, 2008	June 4, 2008
178910	Leaha R. Wirth	73 FR 21980; April 23, 2008	May 29, 2008
179304	Thomas J. Hammond	73 FR 21980; April 23, 2008	June 11, 2008
179951	James M. Falco	73 FR 29144; May 20, 2008	Sept. 24, 2008
180778	Patrick J. Mulligan	73 FR 34035; June 16, 2008	July 21, 2008
180827	John K. Miller	73 FR 35707; June 24, 2008	Sept. 17, 2008
181020	Wendell A. Neal	73 FR 31709; June 3, 2008	July 8, 2008
182074	Thomas E. Tate	73 FR 34035; June 16, 2008	July 21, 2008
184076	Gerald R. Bloom	73 FR 35707; June 24, 2008	July 30, 2008
184468	James A. Hall	73 FR 36891; June 30, 2008	Aug. 4, 2008
185721	Daniel L. Soliday	73 FR 36891; June 30, 2008	Aug. 4, 2008
185730	Hollis B. Higginbotham	73 FR 42593; July 22, 2008	Sept. 10, 2008
185760	Pat N. Crabtree	73 FR 36891; June 30, 2008	Aug. 4, 2008
185761	Cincinnati Zoo and Botanical Garden	73 FR 49698; Aug. 22, 2008	Feb. 2, 2009
185764	Christopher J. Reinesch	73 FR 56863; Sept. 30, 2008	Nov. 7, 2008
185770	William F. Scott	73 FR 47208; Aug. 13, 2008	Sept. 23, 2008
185771	William F. Scott	74 FR 47207; Aug. 13, 2008	Sept. 18, 2008
185773	Gay L. Scott	73 FR 47207; Aug. 13, 2008	Sept. 18, 2008
185775	James M. Scott	73 FR 79155; Dec. 24, 2008	Feb. 6, 2008
185800	Richard R. Scott	73 FR 36891; June 30, 2008	Aug. 4, 2008
185959	Brook F. Minx	73 FR 56863; Sept. 30, 2008	Nov. 12, 2008
185974	Thomas D. Lund	73 FR 56863; Sept. 30, 2008	Nov. 12, 2008
187319	The Science and Conservation Center, Zoo Montana	73 FR 56863; Sept. 30, 2008	Jan. 8, 2009
187324	Byron G. Sadler	73 FR 42593; July 22, 2008	Dec. 3, 2008
187330	University of Illinois Veterinary Diagnostic Laboratory	73 FR 56863; Sept. 30, 2008	Jan. 8, 2009
187826	David C. Lau	73 FR 47208; Aug. 13, 2008	Sept. 23, 2008
187827	Erik D. Holm	73 FR 47207; Aug. 13, 2008	Sept. 25, 2008
188839	Mark C. Glass-Royal	73 FR 47208; Aug. 13, 2008	Sept. 25, 2008
189851	Martin K. Slauch	73 FR 49698; Aug. 22, 2008	Sept. 25, 2008
190199	Patricia A. Pilia	73 FR 56863; Sept. 30, 2008	Nov. 7, 2008
190313	Oregon Health & Science University	73 FR 64628; Oct. 30, 2008	Dec. 4, 2008
191132	Fred H. Gage, Salk Institute	73 FR 64628; Oct. 30, 2008	Dec. 4, 2008
191580	Barry D. Basiliere	73 FR 61162; Oct. 15, 2008	Nov. 18, 2008
191581	Julius W. Kolar	73 FR 61162; Oct. 15, 2008	Jan. 13, 2009
191870	Richard A. Hyce	74 FR 8268; Feb. 24, 2009	March 25, 2009
191870	Richard A. Hyce	74 FR 8268; Feb. 24, 2009	March 25, 2009
192403	Ricardo E. Longoria	73 FR 56863; Sept. 30, 2008	Dec. 8, 2008
192751	Virginia Safari Park & Preservation Center, Inc.	73 FR 56863; Sept. 30, 2008	Dec. 8, 2008
192764	Robert D. Ray	73 FR 61897; Oct. 17, 2008	Nov. 19, 2008
193170	University of Florida	73 FR 64628; Oct. 30, 2008	Dec. 4, 2008
193458	Kenneth E. Buch	73 FR 64628; Oct. 30, 2008	Dec. 12, 2008
194016	Edward L. Mabry	73 FR 61160; Oct. 15, 2008	Nov. 18, 2008
194018	Bill D. Williams	73 FR 75128; Dec. 10, 2008	Jan. 13, 2009
194086	Jon R. Stephens	73 FR 61162; Oct. 15, 2008	Nov. 14, 2008
194286	Glenn M. Smith	73 FR 61162; Oct. 15, 2008	Nov. 14, 2008
194316	Hugh D. Wagner	73 FR 61161; Oct. 15, 2008	Nov. 14, 2008
194319	Kirt O. Fredericks	73 FR 61162; Oct. 15, 2008	Nov. 14, 2008
194491	Sherry V. Nelson	73 FR 64628; Oct. 30, 2008	Dec. 5, 2008
194630	John L. Pouleson	73 FR 61161; Oct. 15, 2008	Nov. 14, 2008
194643	James E. Smith	73 FR 61161; Oct. 15, 2008	Nov. 14, 2008
194655	Thomas E. Freestone	73 FR 61160; Oct. 15, 2008	Nov. 14, 2008
194674	Dianne Peden	73 FR 61161; Oct. 15, 2008	Nov. 14, 2008
195244	David Clemente	73 FR 64628; Oct. 30, 2008	Dec. 4, 2008
195419	Gregory S. Williamson	73 FR 61160; Oct. 15, 2008	Nov. 18, 2008

ENDANGERED SPECIES—Continued

Permit number	Applicant	Receipt of application <i>Federal Register</i> notice	Permit issuance date
195827	Robert W. Barnes	73 FR 64628; Oct. 30, 2008	Dec. 4, 2008
195911	Wesley E. Hixon	73 FR 64628; Oct. 30, 2008	Dec. 4, 2008
195929	William W. Pickett	73 FR 75128; Dec. 10, 2008	Jan. 21, 2009
196067	Trent B. Latshaw	73 FR 64628; Oct. 30, 2008	Dec. 12, 2008
196610	Russell C. Murphy	73 FR 64628; Oct. 30, 2008	Dec. 4, 2008
196611	Roger D. Barker	73 FR 64628; Oct. 30, 2008	Dec. 4, 2008
196633	Gary L. Joeris	73 FR 64628; Oct. 30, 2008	Dec. 4, 2008
196889	Dr. Ajit Varki, Department of Cellular and Molecular Medicine, University of California	73 FR 75129; Dec. 10, 2008	Jan. 28, 2009
197427	Bradford S. Kline	74 FR 5671; Jan. 30, 2009	March 5, 2009
197431	Robert D. Taylor	74 FR 5671; Jan. 30, 2009	March 4, 2009
197642	Saint Louis Zoo	73 FR 75128; Dec. 10, 2008	April 14, 2009
198116	Herbert M.R. Rudolf	73 FR 79898; Dec. 30, 2008	Jan. 29, 2009
198158	Douglas A. Hoofman	73 FR 77830; Dec. 19, 2008	Jan. 26, 2009
198190	Larry G. Evenson	73 FR 75128; Dec. 10, 2008	Jan. 14, 2009
198716	George M. Taylor	73 FR 79155; Dec. 24, 2008	Jan. 22, 2009
198827	Gary D. Steele	73 FR 75129; Dec. 10, 2008	Jan. 21, 2009
199022	Steven V. Slaton	73 FR 77830; Dec. 19, 2008	Jan. 22, 2009
199024	Hans R. Van Riel	73 FR 75129; Dec. 10, 2008	Jan. 21, 2009
199058	Matthew H. Heisser	73 FR 79155; Dec. 24, 2008	Jan. 22, 2009
199101	Jene W. Mobley	73 FR 79898; Dec. 30, 2008	Jan. 29, 2009
199108	University of Washington, National Primate Research Center	74 FR 6049; Feb. 4, 2009	March 12, 2009
199513	Alexander T. Barclay	73 FR 75129; Dec. 10, 2008	Jan. 14, 2009
199530	James W. Anderson	73 FR 75129; Dec. 10, 2008	Feb. 6, 2009
199607	Richard P. Shoemaker	74 FR 5671; Jan. 30, 2009	March 4, 2009
199696	Jock E. Clause	73 FR 79155; Dec. 24, 2008	Feb. 6, 2009
199696	Jock E. Clause	73 FR 79155; Dec. 24, 2008	Feb. 26, 2009
199697	Robert J. Jones, Jr.	73 FR 79898; Dec. 30, 2008	Feb. 6, 2009
200211	KJC Holdings, Inc.	73 FR 79155; Dec. 24, 2008	April 27, 2009
200275	William S. Young	73 FR 79898; Dec. 30, 2008	Jan. 29, 2009
200383	Paul I. Freiderich	73 FR 77830; Dec. 19, 2008	Feb. 6, 2009
200419	Eric T. Bond	73 FR 79898; Dec. 30, 2008	Jan. 29, 2009
200421	Richard W. B. French	73 FR 77830; Dec. 19, 2008	Feb. 6, 2009
200696	Warren A. Sackman	73 FR 79155; Dec. 24, 2008	Feb. 6, 2009
201977	Terrance L. Hurlburt	74 FR 5671; Jan. 30, 2009	March 4, 2009
202379	James W. Thomas, Emory University School of Medicine	74 FR 10959; March 13, 2009	April 14, 2009
202724	Ted A. Trout	74 FR 8268; Feb. 24, 2009	March 27, 2009
202779	Francisco A. Vega	74 FR 5671; Jan. 30, 2009	March 4, 2009
202783	Gregg A. Loudon	74 FR 5671; Jan. 30, 2009	March 4, 2009
203086	Merle A. Sampson	74 FR 5671; Jan. 30, 2008	Feb. 5, 2009
203086	Merle A. Sampson	74 FR 5671; Jan. 30, 2009	Feb. 5, 2009
203347	Duke University Lemur Center	74 FR 10959; March 13, 2009	April 16, 2009
203517	Anthony J. White	74 FR 6049; Feb. 4, 2009	March 27, 2009
203526	Roger A. Rose	74 FR 6049; Feb. 4, 2009	March 27, 2009
203831	Leslie F. Howell, Jr.	74 FR 6049; Feb. 4, 2009	March 27, 2009
203831	Leslie F. Howell, Jr.	74 FR 6049; Feb. 4, 2009	April 23, 2009
204613	Stanford University, Barsh Laboratory	74 FR 10959; March 13, 2009	April 27, 2009
204668	Vulgens M. Schoen	74 FR 8268; Feb. 24, 2009	March 27, 2009
205571	Brigham and Women's Hospital	74 FR 10959; Mar. 13, 2009	April 14, 2009
205664	Milton T. Hummer	74 FR 8268; Feb. 24, 2009	April 13, 2009
206196	Raymond J. Paolucci	74 FR 8268; Feb. 24, 2009	March 27, 2009
207087	Gail R. Winnie	74 FR 10959; March 13, 2009	April 14, 2009
207161	Stephen P. Monti	74 FR 10959; March 13, 2009	April 16, 2009
208563	Jonathan Davis	74 FR 14812; April 1, 2009	May 13, 2009
209140	Stephen G. Klarr	74 FR 14812; April 1, 2009	May 13, 2009
209358	Richard E. McFalls	74 FR 17210; April 14, 2009	May 20, 2009
209360	John S. Osborne	74 FR 14812; April 1, 2009	May 5, 2009
209362	Mark D. Brown	74 FR 14812; April 1, 2009	May 5, 2009
209362	Mark D. Brown	74 FR 14812; April 1, 2009	May 5, 2009
209373	Roberto Gaza Sada	74 FR 14812; April 1, 2009	May 5, 2009
211149	Michael A. Bindon	74 FR 20339; May 1, 2009	June 4, 2009
211150	Stephen G. Bindon	74 FR 20339; May 1, 2009	June 4, 2009
211151	Anthony J. Kiburis	74 FR 20339; May 1, 2009	June 4, 2009
691650	USFWS/Office of Law Enforcement	74 FR 10959; March 13, 2009	May 13, 2009

MARINE MAMMALS

Permit number	Applicant	Receipt of application <i>Federal Register</i> notice	Permit issuance date
049136	Charles Grossman, Xavier University	73 FR 75128; Dec. 10, 2008	March 18, 2009

MARINE MAMMALS—Continued

Permit number	Applicant	Receipt of application <i>Federal Register</i> notice	Permit issuance date
067116	University of Florida, Aquatic Animal Health Program	74 FR 5672; Jan. 30, 2009	April 15, 2009
107933	Wildlife Trust Inc.	73 FR 61161; Oct. 15, 2008	Feb. 2, 2009
195274	USGS National Wildlife Health Center	73 FR 75129; Dec. 10, 2008 ...	March 6, 2009
197043	University of Michigan, Department of Environmental Health Sciences	74 FR 5671; Jan. 30, 2009	March 19, 2009
200587	Alaska Museum of Natural History	74 FR 10959; March 13, 2009	May 15, 2009

Dated: June 5, 2009

Lisa J. Lierheimer

Senior Permit Biologist, Branch of Permits, Division of Management Authority
 [FR Doc. E9-14057 Filed 6-15-09; 8:45 am]
 BILLING CODE 4310-55-S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117-0046]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review. Self-Certification, Training and Logbooks for Regulated Sellers of Scheduled Listed Chemical Products.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until August 17, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with

instructions or additional information, please contact Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrisette Drive, Springfield, VA 22152.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- 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.

Overview of Information Collection 1117-0046

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Self-Certification, Training and Logbooks for

Regulated Sellers of Scheduled Listed Chemical Products.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:*

Form Number: DEA Form 597.
 Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.
Other: None.

Abstract: CMEA mandates that retail sellers of scheduled listed chemical products maintain a written or electronic logbook of sales, retain a record of employee training, and complete a self-certification form verifying the training and compliance with CMEA provisions regarding retail sales of scheduled listed chemical products.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 64,000 persons are self-certified. It is estimated that 410,000 new employees of regulated sellers receive training regarding the requirements of the Combat Methamphetamine Epidemic Act of 2005 due to annual employee turnover. It is estimated that there are 25.5 million transactions involving the sale of scheduled listed chemical products annually. The table below shows the activities and time burdens associated with this collection.

Activity	Unit burden hour	Number of activities	Total burden hours
Training record	0.05 hour (3 minutes)	410,000	20,500
Self-certification	0.25 hour (15 minutes)	64,000	16,000
Transaction record	0.033 hour (2 minutes)	25,500,000	850,000
Customer time	0.033 hour (2 minutes)	25,500,000	850,000
Total			1,736,500

(6) *An estimate of the total public burden (in hours) associated with the*

collection: It is estimated that there are

1,736,500 annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 11, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9-14137 Filed 6-15-09; 8:45 am]

BILLING CODE 4410-09-P

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 3-09]

Meetings; Sunshine Act

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Thursday, June 25, 2009, at 10:30 a.m.

Subject Matter: Issuance of Proposed Decisions, Amended Proposed Decisions and Orders in claims against Albania.

Status: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616-6975.

Mauricio J. Tamargo,

Chairman.

[FR Doc. E9-14182 Filed 6-12-09; 11:15 am]

BILLING CODE 4410-01-P

DEPARTMENT OF JUSTICE

Antitrust Division

Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States hereby publishes below the comments received on the proposed Final Judgment in *United States et al. v. Republic Services, Inc. and Allied Waste Industries, Inc.*, No. 1:08-CV-02076-RWR, which were filed

in the United States District Court for the District of Columbia on May 14, 2009, together with the response of the United States to the comments.

Copies of the comments and the response are available for inspection at the Department of Justice Antitrust Division, 325 Seventh Street, NW., Room 200, Washington, DC 20530, (telephone (202) 514-2481), and at the Office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW., Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Patricia Brink,

Deputy Director of Operations, Antitrust Division.

United States District Court for the District of Columbia

United States of America, State of California, Commonwealth of Kentucky, State of Michigan, State of North Carolina, State of Ohio, Commonwealth of Pennsylvania, and State of Texas, Plaintiffs, v. Republic Services, Inc., and Allied Waste Industries, Inc., Defendants.

Civil Action No.: 1:08-cv-02076

Judge: Hon. Richard W. Roberts

Description: Antitrust

Date Stamp: May 14, 2009

Response of the United States to Public Comments on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h) ("APPA" or "Tunney Act"), the United States hereby responds to five public comments received regarding the proposed Final Judgment in this case. After careful consideration of the five comments, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint. The United States will move the Court for entry of the proposed Final Judgment after the public comments and this Response have been published in the **Federal Register**, pursuant to 15 U.S.C. 16(d).

I. Procedural History

On December 3, 2008, the United States and the State of California, Commonwealth of Kentucky, State of Michigan, State of North Carolina, State of Ohio, Commonwealth of Pennsylvania, and State of Texas (the "States") filed the Complaint in this matter, alleging that defendant Republic Services, Inc.'s ("Republic") acquisition of defendant Allied Waste Industries,

Inc. ("Allied"), if permitted to proceed, would combine two of only a few significant providers of small container commercial waste collection or municipal solid waste ("MSW") disposal services in several markets in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. Simultaneously, the United States filed a proposed Final Judgment and a Hold Separate Stipulation and Order signed by the United States, the States and the defendants consenting to the entry of the proposed Final Judgment after compliance with the requirements of the APPA.

Pursuant to those requirements, a Competitive Impact Statement ("CIS") also was filed in this Court on December 3, 2008; the proposed Final Judgment and CIS were published in the **Federal Register** on December 16, 2008, see 73 FR 76,383 (2008); and a summary of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written comments relating to the proposed Final Judgment, was published for seven days in *The Washington Post* on December 31, 2008 through January 6, 2009. The defendants filed the statement required by 15 U.S.C. 16(g) on April 24, 2009. The 60-day public comment period ended on March 9, 2009; five comments were received, as described below and attached hereto.

II. The Investigation and Proposed Resolution

After Republic and Allied announced their plans to merge, the United States Department of Justice (the "United States") conducted an extensive investigation into the competitive effects of the proposed transaction. As part of this investigation, the United States obtained documents and information from the merging parties and others and conducted more than 600 interviews with customers, competitors, and other individuals knowledgeable about the industry. The investigative staff carefully analyzed the information provided and thoroughly considered all of the issues presented. The United States considered the potential competitive effects of the transaction on small container commercial waste collection or MSW disposal services in a number of geographic areas, obtaining information about these services and these areas from market participants. The United States concluded that the combination of Republic and Allied likely would lessen competition in small container commercial waste collection or MSW disposal services in 15 separate geographic markets.

Small container commercial waste collection service is the collection of MSW from commercial businesses such as office and apartment buildings and retail establishments (e.g., stores and restaurants) for shipment to, and disposal at, an approved disposal facility. Because of the type and volume of waste generated by commercial accounts and the frequency of service required, haulers organize commercial accounts into routes, and generally use specialized equipment to store, collect, and transport MSW from these accounts to approved MSW disposal sites. This equipment (e.g., one- to ten-cubic-yard containers for MSW storage, and front-end load vehicles commonly used for collection and transportation of MSW) is uniquely well suited to providing small container commercial waste collection service. Providers of other types of waste collection services (e.g., residential, hazardous waste, and roll-off services) are not good substitutes for small container commercial waste collection firms. In these types of waste collection efforts, firms use different waste storage equipment (e.g., garbage cans or semi-stationary roll-off containers) and different vehicles (e.g., rear-load, side-load, or roll-off trucks), which, for a variety of reasons, cannot be used conveniently or efficiently to store, collect, or transport MSW generated by commercial accounts and, hence, rarely are used on small container commercial waste collection routes. In the event of a small but significant increase in price for small container commercial waste collection services, customers would not switch to any other alternative.

A number of Federal, State, and local safety, environmental, zoning, and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing and disposal of MSW. In order to be disposed of lawfully, MSW must be disposed in a landfill or incinerator permitted to accept MSW. Anyone who attempts to dispose of MSW in an unlawful manner risks severe civil and criminal penalties. In some areas, landfills are scarce because of significant population density and the limited availability of suitable land. Accordingly, most MSW generated in these areas is burned in an incinerator or taken to transfer stations where it is compacted and transported on tractor trailer trucks to a more distant, permanent MSW disposal site. A transfer station is an intermediate disposal site for processing and temporary storage of MSW before transfer in bulk to more distant landfills or incinerators for final disposal.

Because of the strict laws and regulations that govern MSW disposal, there are no good substitutes for MSW disposal in landfills, incinerators, or at transfer stations located near the source of the waste. Firms that do not offer MSW disposal cannot gain significant sales from MSW haulers by offering lower prices. MSW disposal generally occurs in localized markets. Because of transportation costs and travel time to more distant MSW disposal facilities, a substantial percentage of the MSW generated in an area is disposed of at nearby landfills or transfer stations. In the event that a local disposal facility imposed a small but significant increase in the price of disposal of MSW, haulers of MSW generated in that area could not profitably turn to more distant disposal sites.

After its investigation, the United States concluded that the proposed transaction would lessen competition in the provision of non-franchised small container commercial waste collection or MSW disposal services in 15 areas: Los Angeles, California; San Francisco, California; Denver, Colorado; Atlanta, Georgia; northwestern Indiana; Lexington, Kentucky; Flint, Michigan; Cape Girardeau, Missouri; Charlotte, North Carolina; Cleveland, Ohio; Philadelphia, Pennsylvania; Greenville-Spartanburg, South Carolina; Fort Worth, Texas; Houston, Texas; and Lubbock, Texas. In each of these areas, Republic and Allied are two of only a few significant firms providing small container commercial waste collection or MSW disposal services.

As explained more fully in the Complaint and the CIS, this loss of competition would result in consumers paying higher prices and receiving fewer services for the collection and disposal of MSW. Complaint ¶ 23 *et seq.*; CIS ¶ II(B). As alleged in the Complaint, the proposed acquisition of Allied by Republic would remove a significant competitor in small container commercial waste collection and MSW disposal services in already highly concentrated and difficult-to-enter markets. Complaint ¶ 25. In each of these markets, the resulting substantial increase in concentration, loss of competition, and absence of any reasonable prospect of significant new entry or expansion by market incumbents likely would result in higher prices for small container commercial waste collection or MSW disposal services. *Id.*

The proposed Final Judgment is designed to preserve competition in each of the 15 affected geographic markets. It requires Republic and Allied to divest a total of 87 commercial waste

hauling routes, nine landfills and 10 transfer stations, together with ancillary assets and, in three cases, access to landfill disposal capacity. The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in small container commercial waste collection and MSW disposal services in each of these areas. The divestiture of these assets to an independent, economically viable competitor will ensure that users of these services in each market will continue to receive the benefits of competition that otherwise would be lost.

III. Summary of Public Comments and the Response of the United States

During the 60-day public comment period, the United States received comments from: (1) The Center for a Competitive Waste Industry (“CCWI”); (2) Ms. June Guidotti; (3) the Pennsylvania Independent Waste Haulers Association (“PIWHA”); (4) Metro Disposal; and (5) the Cuyahoga County Solid Waste District. The comments are attached in the accompanying Appendix and are summarized below. After reviewing the five comments, the United States continues to believe that the proposed Final Judgment is in the public interest.

A. Public Comment From the CCWI

1. Summary of the CCWI’s Comment

The CCWI, through its attorney David Balto, asserts that “[t]he DOJ must strengthen the [proposed Final Judgment] to remedy the significant competitive problems posed by this merger.” CCWI Comment, at 1. The CCWI comment may be summarized in eight points.

First, the CCWI argues that “[t]here should be divestitures of assets in both the [small container commercial waste collection] and [municipal solid waste] disposal markets in local affected geographic areas not named in the [proposed Final Judgment].” CCWI Comment, at 14.

Second, the CCWI argues that “[b]ecause [the] markets consist of oligopolies’ [sic] with lock holds on local landfills, which create bottlenecks that impede new entry, divested assets should be sold to independent haulers with the right to contract for airspace in the merger companies’ landfills.” *Id.* In effect, the CCWI requests that the proposed Final Judgment be modified to preclude the sale of assets to the top five municipal solid waste companies.

Third, instead of the divestiture of landfills to qualified purchasers, the

CCWI seeks a modification to the proposed Final Judgment that would give independent haulers nondiscriminatory access to landfills. CCWI Comment, at 11–12.

Fourth, the CCWI advocates for additional airspace disposal rights to be included in the proposed Final Judgment. CCWI Comment, at 9.

Fifth, the CCWI asserts that the proposed Final Judgment should be “modified to immediately impose the use of a monitor trustee to ensure compliance with the order,” citing to a prior case for support. CCWI Comment, at 6–7.

Sixth, the CCWI advocates for the inclusion of certain behavioral remedies in the proposed Final Judgment, stating that “[u]se of the merged companies’ evergreen contracts ought to be discontinued, especially in their term lengths, renewal provisions, liquidated damages, and escalator clauses.” CCWI Comment, at 14. The CCWI cites to a prior consent decree that contained such behavioral relief. *Id.* at 7.

Seventh, the CCWI proposes that “the goal of encouraging new entrants in the commercial waste hauling industry will be better served by requiring the divested assets in each individual market to be offered for sale individually rather than in a package,” such as the requirements in the proposed Final Judgment relating to the sale of Divestiture Assets in Atlanta, Georgia; Cleveland, Ohio; Philadelphia, Pennsylvania; and Fort Worth, Texas. CCWI Comment, at 10.

Lastly, the CCWI asserts that the proposed Final Judgment departs from past enforcement actions by allowing Republic to acquire an asset, the Newnan Transfer Station, that Allied previously was required to divest as a condition of the Allied/BFI merger in 1999.⁽¹⁾ CCWI Comment, at 6.

2. Response of the United States to CCWI’s Comment

a. The Final Judgment Need Not Remedy Competitive Concerns Not Addressed in the Complaint

The CCWI’s comment that the United States should have alleged harm to competition in small container commercial waste collection and MSW disposal services in other areas is outside the scope of this Tunney Act proceeding. As explained by this Court, in a Tunney Act proceeding, the district court should not second-guess the prosecutorial decisions of the United States regarding the nature of the claims brought in the first instance; “rather, the court is to compare the complaint filed by the United States with the proposed

consent decree and determine whether the proposed decree clearly and effectively addresses the anticompetitive harms initially identified.” *United States v. Thomson Corp.*, 949 F. Supp. 907, 913 (D.D.C. 1996); *accord United States v. Microsoft Corp.*, 56 F.3d 1448, 1459 (D.C. Cir. 1995) (in APPA proceeding, “district court is not empowered to review the actions or behavior of the Department of Justice; the court is only authorized to review the decree itself”); *United States v. BNS Inc.*, 858 F.2d 456, 462–63 (9th Cir. 1988) (“the APPA does not authorize a district court to base its public interest determination on antitrust concerns in markets other than those alleged in the government’s complaint”). This Court has held that “a district court is not permitted to ‘reach beyond the complaint to evaluate claims that the government did not make and to inquire as to why they were not made.’” *United States v. SBC Commc’ns, Inc.*, 489 F. Supp. 2d 1, 14 (D.D.C. 2007) (quoting *Microsoft*, 56 F.3d at 1459).

The CCWI’s suggestion that the 2004 Amendments to the Tunney Act require a more extensive review of the United States’s exercise of its prosecutorial judgment conflicts with this Court’s holding in *SBC Communications*. In *SBC Communications*, this Court held that “a close reading of the law demonstrates that the 2004 amendments effected minimal changes, and that this Court’s scope of review remains sharply proscribed by precedent and the nature of [APPA] proceedings.” *SBC Commc’ns*, 489 F. Supp. 2d at 11. This Court explained that because “review [under the 2004 amendments] is focused on the ‘judgment,’ it again appears that the Court cannot go beyond the scope of the complaint.” *Id.*

In short, the Tunney Act, as amended in 2004, requires the Court to evaluate the effect of the “judgment upon competition” as alleged in the Complaint. In this case, therefore, the remedy in the proposed Final Judgment must correspond to the harm to competition in small container commercial waste collection and MSW disposal services in the 15 geographic markets identified in the Complaint. *See* 15 U.S.C. 16(e)(1)(b). Because the United States did not allege that Republic’s acquisition of Allied would cause competitive harm in additional markets, it is not appropriate for the Court to determine whether the acquisition will have anticompetitive effects in other regions of the country.

b. There Is No Evidence That Selling Assets to an Appropriate Large National Firm Would Be Less Competitive Than a Sale to a Smaller Firm

The United States has carefully considered the CCWI’s concern that divested assets should be sold only to regional haulers, but respectfully disagrees. The United States does not have any evidence that would lead it to conclude categorically that the divestiture of assets to a large national waste firm would be less competitive than a sale to a small regional firm. In fact, larger firms might enjoy some competitive advantages, such as better access to capital and more extensive experience, that might make them more formidable competitors than regional haulers.

The proposed Final Judgment does not require Republic to accept a particular offer, only that any Acquirer of the divested assets meet the conditions set out in Paragraph IV(I)(1) and (2). These provisions require the divested assets to be sold to a purchaser who “has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the disposal or hauling business.” The divestitures in the proposed Final Judgment thus are designed to preserve competition in the marketplace.

c. Divestiture of an Entire Landfill Is Essential to Restoring Competition to Pre-Merger Levels

The CCWI states that “the [proposed Final Judgment] should be modified to confer upon independent haulers * * * the legal right to acquire 15-year contracts for space in Republic/Allied landfills in all markets that are highly concentrated under the Merger Guidelines, or at least the 15 markets that are the subject of the [proposed Final Judgment].” CCWI Comment, at 9. Essentially, the CCWI argues against the sale of complete landfill assets to a prospective purchaser, preferring instead to carve landfills into separate, discrete portions to be made available to independent waste haulers. The United States has considered this issue and has determined that such relief is contrary to the public interest. As stated in the U.S. Department of Justice Antitrust Division’s Policy Guide to Merger Remedies, the United States believes it is important that a divestiture include all assets necessary for a purchaser to be an effective, stand-alone long-term competitor. *See* U.S. Dep’t of Justice, Antitrust Division Policy Guide to Merger Remedies, § III(B) (2004) (“Remedies Guide”). Under the CCWI

proposal, the proposed relief would interfere with a landfill owner's ability to manage and operate the assets successfully. In particular, a landfill owner typically attempts to capture as much volume pursuant to long-term contracts under the requisite permits. The profitability of a landfill depends upon a variety of factors, including the volume disposed at the site on a daily basis. Under the CCWI's proposal, the landfill owner no longer would have control over critical operational elements of the landfill, such as determining the price charged for disposal services, establishing the duration of contracts, and managing expected daily volumes at the facility. The CCWI proposal would create uncertainty as to whether the landfill assets would be fully utilized, as independent haulers might not remain in business over the life of a divested landfill. Predicting which small container commercial waste collection service provider would use what capacity over the life of the landfill would be nearly impossible. Thus, this proposed remedy could jeopardize the competitive significance of the landfill assets.

The proposed remedy proffered by the CCWI also would require the United States to oversee and enforce contracts between the defendants and non-vertically integrated MSW haulers for an undetermined period of time. As stated in the Remedies Guide, structural remedies, such as those in the proposed Final Judgment, are preferred in merger cases because they are relatively clean and certain, and generally avoid managing or regulating the merged firm's post-merger business conduct. Remedies Guide § III(A). For the reasons identified above, the CCWI's proposal would be more difficult, cumbersome, and costly to administer. The United States believes that the remedies in the proposed Final Judgment will address the alleged competitive harm more effectively and preserve competition in each of the affected areas.

d. No Additional Airspace Disposal Rights Are Necessary

The CCWI argues for the inclusion of additional landfill disposal rights or "airspace rights" in the Final Judgment.⁽²⁾ Simply because the proposed Final Judgment includes additional airspace rights in Houston, Texas, Northwest Indiana, and Philadelphia, Pennsylvania, the CCWI argues that such relief is warranted in other areas. The United States conducted a case-by-case analysis of the specific facts in each market. In eight areas in which the United States

determined the acquisition would result in competitive harm in the market for MSW disposal (Charlotte, North Carolina; Greenville-Spartanburg, South Carolina; Fort Worth, Texas; Denver, Colorado; San Francisco, California; Los Angeles, California; Cleveland, Ohio; and Flint, Michigan) the proposed Final Judgment requires the divestiture of an entire landfill. In two other areas (Atlanta, Georgia and Cape Girardeau, Missouri) transfer stations are the preferred option for MSW disposal because the distance to landfills makes them an unattractive option for the direct haul of MSW. In as much as MSW disposal competitors permanently utilize transfer stations, the divestiture of transfer stations in these areas is sufficient to remedy the competitive harm in MSW disposal.⁽³⁾ In the Philadelphia, Pennsylvania, Northwest Indiana, and Houston, Texas areas, the proposed Final Judgment requires the defendants to sell airspace rights at the buyer's option. These airspace rights generally were intended as an option during a transitional period to assist an Acquirer who might not yet have a plan for final MSW disposal. If the proposed buyer already has an ultimate disposal option(s) in a market, it is not required to purchase these airspace rights.

In the Philadelphia area, the proposed Final Judgment requires the divestiture of the Girard Point Transfer Station and the Philadelphia Recycling and Transfer Station, as well as, at the option of the Acquirer, airspace rights at Republic's Modern Landfill for a period of 18 months. Proposed Final Judgment ¶ II(H)(1)(j). These airspace rights are designed to assist an Acquirer that may not have an ultimate disposal option for a transitional period.

In the Northwest Indiana area, the proposed Final Judgment requires the divestiture of Allied's Valparaiso Transfer Station, various small container commercial waste collection assets, and, at the option of the Acquirer, airspace rights at Allied's Newton County Development Corporation Landfill ("Newton County Landfill") for a two-year period. Proposed Final Judgment ¶ II(H)(1)(i). Pre-merger, both Allied and Republic owned a transfer station in this area. The proposed Final Judgment requires the sale of Allied's Valparaiso Transfer Station, which will preserve pre-merger competition. With regard to landfill options, pre-merger, both Republic and Allied operate landfills in the area—Republic's Forest Lawn Landfill and Allied's Newton County Landfill. Because Republic's Forest Lawn Landfill is expected to be open for only two more years, the proposed Final

Judgment requires the sale of airspace capacity at Allied's Newton County Landfill for the expected remaining life of the Forest Lawn Landfill at the Acquirer's option. Therefore, the remedy preserves competition that otherwise would be lost as a result of the merger.

In the Houston, Texas area, the proposed Final Judgment requires the divestiture of Republic's Hardy Road Transfer Station, Republic's Seabreeze Environmental Landfill, 32 Republic small container commercial waste collection routes, and, at the option of the Acquirer, airspace rights at Allied's Blue Ridge Landfill for a ten-year period. Proposed Final Judgment ¶¶ II(H)(2)(f) & II(I)(6). The United States sought airspace rights at Allied's Blue Ridge Landfill, because the landfill may be a more convenient and cost-efficient disposal option for the divested hauling routes in the southern and western areas of Houston and Harris County. The Houston divestiture package in the proposed Final Judgment is comparable to the remedy in *United States v. USA Waste Service*,⁽⁴⁾ in which the Modified Final Judgment required divestiture of Waste Management, Inc.'s ("WMI") Hardy Road Transfer Station, USA Waste's Brazoria County Landfill, 31 WMI small container commercial waste collection routes, and, at the option of the Acquirer, airspace rights at WMI's Atascocita or Security landfills for a period of ten years. Republic used its prior purchase of the group of assets to compete effectively and grow its business in the Houston, Texas area. Therefore, the remedy is sufficient to preserve competition in this area.

e. A Monitoring Trustee Is Unnecessary

The CCWI emphasizes the need for a monitoring trustee in this case. A monitoring trustee would be responsible for reviewing a defendant's compliance with its decree obligations to sell the assets as a viable enterprise to an acceptable purchaser and to abide by injunctive provisions to hold separate certain assets from a defendant's other business operations. The CCWI cites to *United States v. Computer Associates Int'l*⁽⁵⁾ as support for its contention that additional oversight is needed to ensure compliance with the proposed Final Judgment.

The United States has considered the CCWI's position and respectfully disagrees. In *Computer Associates*, a trustee was appointed at the outset to sell the divested assets because the United States had reason to believe that the parties would not effectuate the divestitures in a timely manner. Here, the United States had no reason to

believe that the defendants would not comply promptly with the divestiture requirements of the proposed Final Judgment, and the defendants have done so. The CCWI's conclusion that a monitoring trustee is necessary in this matter rests on an assumption that the United States's own monitoring efforts will not suffice, and it is counter to the position stated in the Remedies Guide on the use of monitoring trustees in merger-related actions.

Remedies Guide § IV(I)(3). According to Section IV(I)(3) of the Remedies Guide, "[i]n a typical merger case, a monitoring trustee's efforts would simply duplicate, and could potentially conflict with, the Division's own decree enforcement efforts * * * [and] should be reserved for relatively rare situations where a monitoring trustee with technical expertise unavailable to the Division could perform a valuable role." *Id.* In this particular case, the Division has sufficient knowledge of the industry to ensure compliance with the proposed Final Judgment.

f. Restriction of Evergreen Contracts Is Unnecessary

The CCWI states that the United States "fails to limit the ability of the merged firm to use evergreen contracts." CCWI Comment, at 7. In seeking the discontinuance of such contracts, the CCWI cites to a single prior enforcement action in which the United States employed such a remedy.⁽⁶⁾ CCWI Comment, at 7. Simply because that prior consent decree contained such a remedy, the CCWI believes similar provisions are necessary in this case.

As stated above, *see supra* Part III.2.c, the structural remedy of a divestiture is preferable to a behavioral remedy in merger cases because of the speed, certainty, cost, and efficacy associated with such a remedy. Unlike a structural remedy, a behavioral remedy of contract relief is less certain and is required only when warranted by the facts of the case. The United States has extensive experience reviewing mergers in the waste industry, and it reviews each transaction and each implicated geographic area on a case-by-case basis. The United States has considered this issue and has concluded that the modification of contracts is not necessary to preserve effective competition in the markets identified in the Complaint.

The United States conducted a thorough market-by-market investigation, which included hundreds of hours of interviews with customers and competitors of the merging parties. The United States heard no specific concern that would warrant the type of relief suggested by the CCWI. The

United States determined that the proposed remedy, *i.e.*, the divestiture of all or most small container commercial waste collection routes of one of the merging parties in each affected market, is sufficient to provide effective competition in small container commercial waste collection services in each market and is consistent with prior Antitrust Division practice.

The proposed Final Judgment would require the divestiture of either Republic's or Allied's entire small container commercial waste collection business in six of the nine geographic areas in which it has alleged competitive harm to competition in the provision of small container commercial waste collection services: Cape Girardeau, Missouri; Charlotte, North Carolina; Fort Worth, Texas; Greenville-Spartanburg, South Carolina; Lexington, Kentucky; and Lubbock, Texas. The sale of the entire small container commercial waste collection business preserves the pre-merger market structure in each of these markets. Accordingly, no additional contract relief is necessary.

In the remaining three areas in which the United States has alleged competitive harm to competition in the provision of small container commercial waste collection services Houston, Texas, Atlanta, Georgia, and Northwest Indiana the proposed Final Judgment would require the divestiture of most of either Allied's or Republic's small container commercial waste collection business. In the Houston, Texas area, the small container commercial waste collection routes and related assets that would be divested pursuant to the proposed Final Judgment, Proposed Final Judgment ¶ II(I)(6), represent a set of assets comparable to those divested in *USA Waste*.⁽⁷⁾ In *USA Waste*, the defendants divested 31 routes; by comparison in this case, the proposed Final Judgment includes 32 routes. Republic, as the purchaser of the Houston assets in *USA Waste*, was able to use these assets as a platform for entry into the area and to grow and become an effective, fully integrated, and viable competitor in the area. No contract relief was required to remedy any market in *USA Waste*, including Houston, Texas. In the present case, the divestiture of the small container commercial waste collection assets, coupled with the related sale of disposal assets, once again will enable a qualified acquirer to provide effective competition in the Houston, Texas area, much as Republic was able to do. Therefore, contract relief is not necessary here.

In the Atlanta, Georgia area, the proposed Final Judgment would require

the divestiture of all of Allied's routes in the northern and eastern areas of Atlanta, where Allied and Republic most directly overlapped and competed most intensely. Proposed Final Judgment ¶ II(I)(1). Numerous factors affect waste transport and disposal in the area, such as local requirements that require MSW to be disposed at designated disposal facilities, congestion, traffic patterns, and local ordinances. In light of these factors, haulers typically do not travel outside the northern and eastern portions of the area. The remedy here was designed to preserve the small container commercial waste collection competition that existed pre-merger. The United States has approved Advanced Disposal Services, Inc., which already has a presence in the area, as the Acquirer of these assets. With a footprint in the area, Advanced Disposal not only will replace competition lost as a result of the merger, but will become a more efficient competitor. Therefore, contract relief is not necessary here.

In the Northwest Indiana area, the proposed Final Judgment would require the divestiture of most of Allied's small container commercial waste collection business in Porter, LaPorte, and Lake Counties. Proposed Final Judgment ¶ II(I)(9). In these areas, Republic and Allied competed most directly to provide customers with small container commercial waste collection services. The proposed Final Judgment addresses the harm alleged in the Complaint by requiring the divestiture of those routes necessary to create an effective competitor. To the extent the CCWI argues that additional routes or contract relief, might be necessary to create an effective remedy in MSW disposal, the United States concluded that this is not necessary because there are numerous hauling competitors in the area to support the divested Valparaiso Transfer Station. Therefore, the proposed remedy is sufficient to restore competition to pre-merger levels.

g. The Individual Sale of All the Divestiture Assets Is Not Necessary

The CCWI suggests that the proposed Final Judgment be modified to require that the Divestiture Assets in each market be offered for sale separately and that no Divestiture Assets be sold together as a bundle. The CCWI cites to the requirements in the proposed Final Judgment that the assets in Atlanta, Georgia, Cleveland, Ohio, Philadelphia, Pennsylvania, and Fort Worth, Texas be sold separately from the Divestiture Assets in the other areas. Proposed Final Judgment ¶ IV(A).

The United States has considered the CCWI's position and respectfully disagrees. Based on its extensive experience in overseeing divestitures of assets in antitrust cases, the United States has concluded that it is most efficient to allow the defendants to manage the process of selling divestiture assets, which may include the bundling of assets. In particular, a sale of bundled divestiture assets typically results in a quicker divestiture and a more efficient utilization of the divestiture assets by the acquirer. As always, the United States retains the authority to review a proposed acquirer of divestiture assets to determine whether the respective acquirer will fully utilize a package of divestiture assets.

In this case, based on a fact-specific investigation of potential buyers in each area, the United States concluded that competition would benefit from the separate sale of the Divestiture Assets in the Atlanta, Georgia, Cleveland, Ohio, Philadelphia, Pennsylvania, and Fort Worth, Texas areas.⁽⁸⁾ Specifically, the separate sale of the Divestiture Assets in each of these four markets may permit a local or regional waste firm to acquire them and combine such assets with their own existing assets already serving these markets. The decision of the United States to require the sale of the Divestiture Assets in certain markets separately was also based on the recognition that approval of a single purchaser of all of the Divestiture Assets in the 15 relevant markets would be unlikely given the potential competitive overlap in some of these markets by some likely purchasers. For the reasons above, the CCWI's proposal is both unnecessary and contrary to the purposes of antitrust relief. If implemented, the proposal could substantially lengthen the divestiture process.

h. Republic's Acquisition of the Newnan Transfer Station Would Not Substantially Diminish Competition for the Provision of MSW Disposal Services in the Atlanta, Georgia Area

The CCWI states that the proposed Final Judgment "permits Allied to reacquire assets it was required to divest as a condition of previous final judgments," which "represents a departure from previous agreements preventing such reacquisitions." CCWI Comment, at 6. The CCWI cites to Republic acquiring the Newnan Transfer Station, a disposal asset that was required to be divested in 1999 pursuant to the terms of a Final Judgment entered in *Allied/BFI*.

In 1999, in connection with the acquisition by Allied of Browning

Ferris, Industries, Allied was required to divest the Newnan Transfer Station located in Newnan, Georgia, which at the time was serving the Atlanta, Georgia area. As part of the Final Judgment entered in *Allied/BFI*, Republic acquired the Newnan Transfer Station from Allied and owns it today. Paragraph VIII(A) of the *Allied/BFI* Modified Final Judgment prohibits for a ten-year period Allied's reacquisition of divested assets without the prior written consent of the United States. Although Republic's acquisition of Allied will recombine the Newnan Transfer Station with Allied's other disposal assets in the Atlanta area, the United States has consented to this recombination because it concluded that the Newnan Transfer Station no longer participates meaningfully in the Atlanta market for MSW disposal services, and no competitive issues exist in the rural areas southwest of Atlanta served by the Newnan Transfer Station. Specifically, the United States found that, although Allied used the Newnan Transfer Station to serve the Atlanta MSW disposal market as of 1999 and that facility competed directly with transfer stations in the Atlanta area that Allied was acquiring in the *Allied/BFI* merger the focus of the Newnan Transfer Station has changed under Republic's ownership, and other transfer stations in the Atlanta area now accept the MSW that previously was disposed at the Newnan Transfer Station. Waste flow reports show that the Newnan Transfer Station disposes of waste generated in rural areas southwest of Atlanta and competes much less directly with other disposal facilities in the Atlanta area. Accordingly, the United States concluded that the proposed acquisition of Allied by Republic, whereby Allied's MSW disposal assets would be recombined with the Newnan Transfer Station, would not substantially diminish competition for the provision of MSW disposal services in the Atlanta, Georgia area. Instead, the divestiture of Republic's Central Gwinnett Transfer Station and Allied's BFI Smyrna Transfer Station will be an effective remedy for the anticompetitive effects of the proposed acquisition on MSW disposal services in this market.

B. Public Comment From June Guidotti

1. Summary of Ms. Guidotti's Comment

Ms. June Guidotti owns property adjacent to Republic's Potrero Hills Landfill. Guidotti Comment, at 1. As a neighbor to the Potrero Hills Landfill, Ms. Guidotti, through her counsel William Reustle, asserts that the Potrero Hills Landfill "should be put back to its

original status as a marsh environment." *Id.* Ms. Guidotti further contends that "Republic Services should be required to forever clean up and be accountable for the damage they have caused to untold plants and marine life." *Id.* Also, she requests that "Republic Services (Allied Services) bear the costs to make the land useable once again, and to restore it to its prior pristine condition." *Id.*

2. Response of the United States to Ms. Guidotti's Comment

In this antitrust suit, the allegations in the Complaint are based on current market conditions. In the current market, Potrero Hills is being used as a landfill. Given its current use as a landfill, the proposed divestiture will remedy the competitive harm that would have resulted from the merger. Whether the landfill continues to operate is within the purview of the State of California and local authorities; nothing in the proposed Final Judgment affects their authority or precludes the responsible State and local authorities from discontinuing the operation of a landfill on the site. The decision whether to permit the continuing use of the site for waste disposal should be left to the appropriate regulatory entities.

C. Public Comment From the Pennsylvania Independent Waste Haulers Association

1. Summary of the PIWHA's Comment

The PIWHA submitted a comment through counsel, Anthony Mazillo and Leonard Dimare. In the comment, the PIWHA opined that the proposed Final Judgment should be revised to: (1) Require the "divestiture of the Quickway transfer station * * * and the T.R.C. transfer station * * *, or at least one of them, instead of the Girard Point transfer station * * * and the Philadelphia Recycling and Transfer Station;" PIWHA Comment, at 1, (2) require the sale of the "divested facilities * * * to small, independent acquirers, if possible, and should permit the sale of each facility * * * to separate acquirers"; *id.*, (3) "permit seller financing"; *id.*, (4) require "the two facilities in the Philadelphia area * * * to be sold separately to two different acquirers;" *id.* at 3, and (5) "require the defendants to offer three (3) year disposal contracts to all waste haulers." *Id.* at 1.

2. Response of the United States to the PIWHA's Comment

a. The Divestitures in the Proposed Final Judgment Will Preserve Competition

The proposed Final Judgment requires the defendants to divest the Girard Point Transfer Station and the Philadelphia Recycling and Transfer Station.

Proposed Final Judgment ¶

II(H)(2)(h)(i)–(ii). The Final Judgment also requires that the Acquirer of the transfer stations be offered the option of an 18-month disposal agreement at Republic's Modern Landfill in York, Pennsylvania for the final disposal of waste received at the transfer stations.

Proposed Final Judgment

¶ II(H)(1)(j). The PIWHA's comment asserts that this proposed remedy is insufficient for several reasons. First, PIWHA states that, although PIWHA does not have access to the defendants' financial data, "marginal profitability of the Girard Point and [Philadelphia Recycling and Transfer Station] facilities has been the distinct impression of various PIWHA members." PIWHA Comment, at 2. Also, the PIWHA asserts that the Girard Point Transfer Station and the Philadelphia Recycling and Transfer Station are "substantially further geographically from haulers servicing Bucks and Montgomery counties than Quickway and TRC, and, accordingly, are more costly for those haulers to use." *Id.*

With regard to the financial viability of the Philadelphia assets, the bidding process for these assets has generated interest from several proposed purchasers; this demonstrated interest is persuasive evidence of the substantial value of the two transfer stations as ongoing business concerns.

With regard to the PIWHA's contention that the United States should have selected different MSW disposal assets, the United States respectfully disagrees. The relief proposed by the PIWHA goes beyond the scope of the allegations in the Complaint and, as discussed in Part III.A.2(a) above, should not be considered by the Court. The United States alleged in the Complaint that the merger would have the effect of reducing competition in the market for MSW disposal services in the Philadelphia, Pennsylvania area—which identifies specifically in Philadelphia County—and not in the areas identified by the PIWHA. Complaint ¶ 22. Both the Girard Point Transfer Station and the Philadelphia Recycling and Transfer Station are located in Philadelphia County and are accessible to MSW haulers in Philadelphia County. Based on current market conditions, the

ordered divestitures of Republic's Girard Point Transfer Station and Allied's Philadelphia Recycling and Transfer Station will alleviate the competitive concerns alleged in the Complaint by introducing a new MSW disposal services competitor into the Philadelphia, Pennsylvania area described in the Complaint.

b. The Divestiture Will Be Sold to a Viable and Competitive Firm

As stated in Part III.A.2(b) above, Paragraphs IV(I)(1) and (2) of the proposed Final Judgment require the divested assets to be sold to a purchaser that "has the intent and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the disposal and hauling business." When presented with a proposed acquirer of the Divestiture Assets, the United States will evaluate the proposed acquirer to determine whether it meets these requirements. Thus, the proposed Final Judgment already addresses this aspect of the PIWHA's comment.

c. Requiring the Separate Sale of the Philadelphia Assets Will Not Resolve Harm Alleged in Complaint

With regard to separating the Divestiture Assets in the Philadelphia area, the United States does not believe that this proposal is appropriate. The goal of the divestiture of the Girard Point Transfer Station and Philadelphia Recycling and Transfer Station facilities to one acquirer is to find a purchaser that possesses both the means and the incentive to maintain the level of premerger competition in the area. In this area, transfer stations are the primary disposal option for haulers of MSW in this market because roadways in much of the area are highly congested and MSW landfills generally are too far from collection routes for the direct haul of MSW to landfills to be economical. Because transfer stations are the primary disposal options for haulers in this area, an acquisition of both transfer stations is necessary for a new competitor to compete for large municipal contracts in the area. Such contracts require a firm to handle large volumes of waste. The proposed remedy will enable a purchaser to maintain the premerger level of competition between Republic and Allied.

d. Seller Financing is Strongly Disfavored

The PIWHA advocates the need for seller financing of the Divestiture Assets. PIWHA Comment, at 3–4. Seller financing essentially is a loan provided by the seller of an asset to the buyer, to

cover part or all of the sale price. The PIWHA argues that small independent purchasers will not have access to the capital needed to bid on the assets. *Id.* at 3. In its view, the benefits of seller financing outweigh the "potential problems" associated with it. *Id.*

The United States strongly disfavors seller financing of the divestitures for several reasons. Remedies Guide § IV(G). First, the seller may retain partial control over the assets, which could weaken the purchaser's competitiveness. Second, the seller's incentive to compete may be impeded because of the seller's concern that vigorous competition may jeopardize the purchaser's ability to repay the debt. Third, the seller may have some legal claim on the Divestiture Assets in the event the purchaser goes into bankruptcy. Fourth, the seller may use the ongoing relationship as a conduit for the exchange of competitively sensitive information. Lastly, a purchaser's inability to obtain financing from banks or other lending institutions may raise questions about the purchaser's viability. The United States believes that it is unnecessary to accept the risks associated with seller financing when a satisfactory divestiture is likely to occur without them.

e. Requiring the Defendants to Offer Three-Year Disposal Contracts Is Unnecessary

In its comment, the PIWHA requests that "the defendants be required to offer three year disposal contracts to all haulers, not just the larger ones as is currently the case." PIWHA Comment, at 4. The PIWHA believes that "large, vertically integrated waste industry firms are generally unwilling to offer smaller haulers disposal contracts for a term exceeding one year." *Id.* Thus, PIWHA asserts that a three-year disposal contract requirement will benefit the independent haulers and, ultimately, competition generally in the Philadelphia, Pennsylvania area. *Id.*

The United States does not believe that additional injunctive relief is necessary to eliminate the competitive effects from the merger in the Philadelphia area. The proposed Final Judgment should be no more restrictive than necessary to keep the Divestiture Assets competitive. Remedies Guide § II. The United States has no evidence that the defendants' merger would raise competitive issues warranting the imposition of the additional relief proposed by the PIWHA. Because the Divestiture Assets will remain competitive without such injunctive relief, the remedy in the proposed Final

Judgment is sufficient to resolve the harm alleged in the Complaint.

D. Public Comment From Metro Disposal

1. Summary of Metro Disposal's Comment

Metro Disposal operates small container commercial waste collection and MSW disposal services principally in the Cleveland, Ohio area. In its comment, Metro Disposal asserts that the proposed Final Judgment should be revised to include the sale of 15 small container commercial waste collection routes in Cuyahoga County along with the sale of the Harvard Road Transfer Station and an unspecified number of additional routes in the town of Mansfield to the purchaser of the Oakland Marsh Landfill. Metro Disposal Comment, at 2. Metro Disposal further asserts that the Divestiture Assets will not be attractive “[w]ithout having some guarantee of volumes into the Harvard transfer [station].” *Id.*

2. Response of the United States to Metro Disposal's Comment

The United States conducted a thorough investigation into small container commercial waste collection and MSW disposal services in the Cleveland, Ohio area. During the investigation, the United States conducted many interviews of market participants to determine the competitive impact of the proposed merger. Based on the investigation and current market conditions, the ordered divestitures of Allied's Superior Oakland Marsh Landfill and Republic's Harvard Road Transfer Station will alleviate the competitive concerns alleged in the Complaint by introducing a new MSW disposal services competitor to the market. A new competitor should provide a significant competitive alternative to the defendants' MSW disposal services in the Cleveland market. Metro Disposal's proposal to revise the proposed Final Judgment to require the sale of small container commercial waste collection routes in effect would require a remedy in a market in which no competitive harm has been alleged, and therefore would exceed the scope of the Complaint. The United States has no evidence that the merger would have anticompetitive effects in the market for small container commercial waste collection services in the Cleveland area. Numerous competitors for the provision of small container commercial waste collection services will remain in the Cleveland area following the merger. Because the merger will not cause

competitive harm in this market, the additional remedy proposed by Metro Disposal is unnecessary.

With regard to Metro Disposal's concern that additional MSW volumes are necessary for the continued viability of the Harvard Road Transfer Station and Superior Oakland Marsh Landfill, the United States respectfully disagrees. In its investigation, the United States found that the Harvard Road Transfer Station is centrally located in the City of Cleveland and is accessible to MSW haulers in Cuyahoga County. In addition, the Superior Oakland Marsh landfill will provide the Acquirer with an option for the final disposal of MSW. In the Cleveland, Ohio area, there are several independent haulers who are seeking additional disposal options. Accordingly, in addition to internalizing its own MSW in the transfer station and landfill, the Acquirer of the Divestiture Assets will be able to compete for third-party volumes to supply these disposal facilities. Thus, the ordered divestitures of Allied's Superior Oakland Marsh Landfill and Republic's Harvard Road Transfer Station will alleviate the competitive concerns alleged in the Complaint by introducing a new MSW disposal services competitor into the Cleveland, Ohio area, thereby maintaining the pre-merger level of competition.

E. Public Comment From the Cuyahoga Solid Waste District

1. Summary of the Cuyahoga Solid Waste District's Comment

Like Metro Disposal, the Cuyahoga Solid Waste District urges that “sufficient small container commercial collection routes in the Cleveland, Ohio market area be added to the Relevant Hauling Assets” to make “the sale of the Harvard Road Transfer Station and the Oakland Marsh Landfill a financially viable transaction necessary to attract a qualified buyer.” Cuyahoga Comment, at 2. The Cuyahoga Solid Waste District also asserts that the proposed Final Judgment should prohibit Republic from acquiring transfer station assets in Cuyahoga County, including the Broadview Heights Recycling Center. *Id.*

2. Response of the United States to the Cuyahoga Solid Waste District's Comment

As explained in Part III.D.2. above, the United States has seen no evidence of anticompetitive harm in the Cleveland, Ohio market for small container commercial waste collection services, and the Complaint contains no allegation of such harm; accordingly, the relief proposed by the Cuyahoga

Solid Waste District goes beyond the scope of the Complaint and should not be considered by the Court. Moreover, independent haulers generate sufficient volumes of MSW to support the types of volumes needed to supply the Harvard Road Transfer Station and Oakland Marsh Landfill. With regard to the Cuyahoga Solid Waste District's suggestion that Republic be barred from acquiring transfer station assets in Cuyahoga County, the United States already has addressed this concern in Section VII of the proposed Final Judgment:

[D]efendants, without providing advance notification to United States and the Relevant State, shall not directly or indirectly acquire, any (1) interest in any business engaged in a relevant service in a relevant area, (2) assets (other than in the ordinary course of business) used in a relevant service in a relevant area, (3) capital stock, or (4) voting securities of any person that, at any time during the twelve (12) months immediately preceding such acquisition, was engaged in MSW disposal or small container commercial waste collection in any relevant area, where that person's annual revenues in the relevant area from MSW disposal and/or small container commercial waste collection service were in excess of \$500,000 annually. For clarity, this provision also applies to an acquisition of disposal facilities that serve a relevant area but are located outside the relevant area, whether or not they are physically located in the relevant area.

Section VII of the proposed Final Judgment requires the defendants to notify the United States and the Relevant State if they plan to acquire any additional assets in the area, including Broadview Heights Recycling Center. Such notification would provide the United States and the Relevant State the opportunity to investigate, review, and ultimately determine whether the defendants' potential acquisition of additional small container commercial waste collection or MSW disposal assets in the Cleveland, Ohio area would present the potential for anticompetitive harm. The Cuyahoga Solid Waste District's concern thus is addressed in the proposed Final Judgment.

IV. Standard of Judicial Review

Upon the publication of the Comments and this Response, the United States will have fully complied with the Tunney Act and will move for entry of the proposed Final Judgment as being “in the public interest.” 15 U.S.C. 16(e)(1), as amended.

The Tunney Act states that, in making that determination, the Court shall consider:

A. The competitive impact of such judgment, including termination of alleged violations, provisions for

enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

B. The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A)–(B); see generally *United States v. AT&T Inc.*, 541 F. Supp. 2d 2, 6 n.3 (D.D.C. 2008) (listing factors that the Court must consider when making the public-interest determination); *United States v. SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1, 11 (D.D.C. 2007) (concluding that the 2004 amendments to the Tunney Act “effected minimal changes” to scope of review under Tunney Act, leaving review “sharply proscribed by precedent and the nature of Tunney Act proceedings”).⁽⁹⁾

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government’s complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *United States v. Microsoft Corp.*, 56 F.3d 1448, 1458–62 (D.C. Cir. 1995). With respect to the adequacy of the relief secured by the decree, a court may not “engage in an unrestricted evaluation of what relief would best serve the public.” *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); see also *Microsoft*, 56 F.3d at 1460–62. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court’s role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is “within the reaches of the public interest.” More elaborate requirements might undermine the

effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted); cf. *BNS*, 858 F.2d at 464 (holding that the court’s “ultimate authority under the [APPA] is limited to approving or disapproving the consent decree”); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to “look at the overall picture not hypercritically, nor with a microscope, but with an artist’s reducing glass”); see generally *Microsoft*, 56 F.3d at 1461 (discussing whether “the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the ‘reaches of the public interest’”).

The government is entitled to broad discretion to settle with defendants within the reaches of the public interest. *AT&T Inc.*, 541 F. Supp. 2d at 6. In making its public-interest determination, a district court “must accord deference to the government’s predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.” *SBC Commc'ns*, 489 F. Supp. 2d at 17; see also *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be “deferential to the government’s predictions as to the effect of the proposed remedies”); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States’s prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Court approval of a consent decree requires a standard more flexible and less strict than that appropriate to court adoption of a litigated decree following a finding of liability. “[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is ‘within the reaches of public interest.’” *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff’d sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); see also *United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States “need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the

alleged harms.” *SBC Commc'ns*, 489 F. Supp. 2d at 17.

Moreover, the Court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, rather than to “construct [its] own hypothetical case and then evaluate the decree against that case.” *Microsoft*, 56 F.3d at 1459. Because the “court’s authority to review the decree depends entirely on the government’s exercising its prosecutorial discretion by bringing a case in the first place,” it follows that “the court is only authorized to review the decree itself,” and not to “effectively redraft the complaint” to inquire into other matters that the United States did not pursue. *Id.* at 1459–60. As this Court recently confirmed in *SBC Communications*, courts “cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.” *SBC Commc'ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments to the Tunney Act, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that “[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.” 15 U.S.C. 16(e)(2). The amendments codified what Congress intended when it passed the Tunney Act in 1974, as Senator Tunney then explained: “[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.” 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public-interest determination is left to the discretion of the court, with the recognition that the court’s “scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.” *SBC Commc'ns*, 489 F. Supp. 2d at 11.⁽¹⁰⁾

V. Conclusion

After careful consideration of the public comments, the United States concludes that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint and is therefore in the public interest. Accordingly, after the comments and this Response are published in the **Federal Register** pursuant to 15 U.S.C. 16(b) and (d), the United States will

move this Court to enter the proposed Final Judgment.

Dated: May 14, 2009.

Respectfully submitted,

Stephen A. Harris (NJ Bar No. 020201999),

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Attorney for Plaintiff the United States.

Certificate of Service

I, Stephen A. Harris, hereby certify that on May 14, 2009, I caused a copy of the foregoing Response of the United States to Public Comments on the Proposed Final Judgment and the attached Appendix to be served by electronic filing on Republic Services, Inc. and Allied Waste Industries, Inc., and plaintiffs the State of California, Commonwealth of Kentucky, State of Michigan, State of North Carolina, State of Ohio, Commonwealth of Pennsylvania, and the State of Texas by mailing the document electronically to the duly authorized legal representatives as follows:

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Footnotes

1. See *United States v. Allied Waste Industries & Browning-Ferris Industries* (D.D.C. 1999) (No. 1:99 CV 01962) [hereinafter *Allied/BFI*].

2. The CCWI asserts that "Despite the consistency of prevailing market conditions cited in the [proposed Final Judgment], the remedies vary widely from market to market." CCWI Comment, at 8. In particular, the CCWI states that "the [proposed Final Judgment] provides for the divestiture of airspace disposal rights * * * in several local markets, but requires that such rights remain with the acquirer for varying durations and upon varying terms." *Id.* at 9. In the proposed Final Judgment, the United States carefully crafted a remedy based on the particular facts presented in each of the affected areas. The United States's goal is to restore competition lost as a result of the merger, not to enhance premerger competition by requiring additional remedies not warranted by the facts. The CCWI's desire for an identical

remedy in each of the affected areas would be counter to this goal. Based on a market-by-market analysis of each of the affected areas, the proposed remedy will restore competition lost as a result of the merger in each area.

3. In two other areas Lubbock, Texas and Lexington, Kentucky it was determined that there was no harm to MSW disposal. Rather, the proposed Final Judgment requires the sale of Allied and Republic's small container commercial waste collection businesses as well as associated hauling facilities, respectively. Because there was no competitive harm to the market for MSW disposal, no disposal remedy is necessary.

4. See *United States, et al. v. USA Waste Services, Inc., et al.*, (N.D. Ohio 1999) (Civil No. 1:98CV1616) (hereinafter *USA Waste*).

5. (D.D.C. 1999) (Case No. 1:99 CV 01318).

6. The CCWI cites to *United States v. Allied Waste Industries, Inc.*, (D.D.C. 2000) (No. 1:00 CV 01469), in support of its assertion that contract relief should be required in this case. In a more recent case, however, *United States v. Waste Management, Inc., et al.* (D.D.C. 2003) (No. 1:03 CV 01409), the United States sought contract relief in some markets, but not others, as warranted by the specific facts of the case.

7. See *USA Waste*, at ¶ II(D)(7).

8. In addition, after the filing of the proposed Final Judgment, the defendants agreed to separately market and sell the Divestiture Assets in the San Francisco, California area, pursuant to an agreement with the Attorney General for the State of California.

9. The 2004 amendments substituted "shall" for "may" in directing relevant factors for courts to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004) with 15 U.S.C. 16(e)(1) (2006).

10. a> See *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); *United States v. Mid-Am. Dairymen, Inc.*, 1977-1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to

comments in order to determine whether those explanations are reasonable under the circumstances.”); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (“Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.”).

March 6, 2009

Maribeth Petrizzi,
Chief, Litigation II Section, Antitrust
Division, U.S. Department of
Justice, 1401 H Street NW., Suite
3000, Washington, DC 20530.

Re: Comments of the Center for a
Competitive Waste Industry, on the
Proposed Judgment in *U.S. v.
Republic Services, Inc. and Allied
Waste Industries, Inc.*, Case No.
1:08-cv-02076 (D.D.C. 2008)

Dear Ms. Petrizzi: The proposed final judgment (“PFJ”) in this case will not fully remedy the competitive problems identified in the complaint but rather will permit a three-firm oligopoly to consolidate into an even more concentrated two-firm oligopoly based upon a remedy that is fatally discredited by the very parties involved. The proposal to create a duopoly in an industry with a history of persistent anticompetitive conduct is something that warrants the utmost scrutiny. In 1998 and 1999 the Department of Justice permitted two mega-mergers by ordering the divestiture of overlapping assets primarily to Republic Services, at that time ranked fifth. Now, in this proceeding, that same Republic Services, which was then supposed to restore competition, is applying to consolidate an already highly consolidated industry into a duopoly, with a few divested assets to the current fifth ranked oligopoly member, in this case Waste Connections.

The PFJ is both inconsistent with past DOJ waste enforcement actions and internally inconsistent. A more lax approach is not warranted; indeed, the failure to abide with past divestitures calls for a more strict approach now. The DOJ must strengthen the PFJ to remedy the significant competitive problems posed by this merger. As we recommend, the merged firm should be required to sell to independent haulers some of the airspace in their landfills where the two firms’ markets overlap. Unlocking control over landfills is most often the key element in effective relief, because the extreme difficulty in permitting new sites creates near impenetrable barriers to entry for disposal. Moreover, consistent with past DOJ practice, undisputedly anticompetitive evergreen contracts

should be curtailed and enforcement monitors should be established to insure compliance—especially when, as here, the merged firms have a past history of violating prior orders.

On December 3, 2008 the Antitrust Division of the Department of Justice filed a complaint and proposed final judgment (“PFJ”) with this Court regarding the acquisition of Allied Waste Industries, Inc. (“Allied”) by Republic Services, Inc. (“Republic”). Although this acquisition creates a dominant waste hauling and disposal company nationally, the DOJ restricted its remedy to a very limited set of geographic markets in which competitive concerns arise in the small container commercial waste collection (“SCCWC”) and municipal solid waste (“MSW”) disposal markets. Moreover, the proposed remedies in these limited markets are inadequate to remedy competitive harm and are overall inconsistent as compared to other previous enforcement actions in the waste hauling and disposal industry.

The Center for a Competitive Waste Industry files these comments pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b–e) (known as the “Tunney Act”) because the DOJ’s complaint and PFJ are seriously inadequate to remedy the competitive concerns arising from this transaction. This merger results in a duopoly that threatens competition in the SCCWC markets in 10 local markets (Atlanta, Georgia; Cape Girardeau, Missouri; Charlotte, North Carolina; Fort Worth, Houston, and Lubbock, Texas; Greenville and Spartanburg, South Carolina; Lexington, Kentucky and Northwest Indiana), with combined market shares of just the merging firms of up to 75%.

This merger also results in Republic dominating the municipal solid waste disposal markets (“MSW markets”), according to the proposed order, just in 13 local markets (Atlanta, Georgia; Charlotte, North Carolina; Cleveland, Ohio; Denver, Colorado; Flint, Michigan; Fort Worth and Houston, Texas; Greenville and Spartanburg, South Carolina; Los Angeles and San Francisco, California; Northwest Indiana; and Philadelphia, Pennsylvania), with combined market shares of just the merging firms of up to 80%.

In these designated markets, the PFJ attempts to remedy the anticompetitive effects of the merger but takes no action in other markets that have an equal or greater level of concentration. Even if the identified local markets are the only markets of competitive concern the PFJ is inadequate in several respects:

- The PFJ is inconsistent with past waste merger enforcement actions;
- The relief in the PFJ is internally inconsistent;
- The PFJ limits itself to divestiture of landfill and transfer station assets, which independent haulers usually cannot afford, and does not include mechanisms for non-discriminatory access to such assets;
- The PFJ fails to restrict the sales of divested assets to the other oligopolists in the waste industry; and
- The PFJ fails to require the modification of evergreen contracts that severely limit customer choice and provide formidable barriers to entry for potential competitors, despite this requirement in previous enforcement actions.

To alleviate these problems we suggest the following modifications to the PFJ:

- The PFJ should prohibit evergreen contracts and provide for modification of terms of length, renewal provisions, liquidated damages, and escalator clauses;
- The PFJ should prohibit divestiture to other oligopolists;
- The PFJ should provide independent haulers access to landfills in all markets on a non-discriminatory basis; and
- The DOJ should appoint a trustee to monitor compliance with the final judgment.

I. The Interests of the Parties

These comments are submitted on behalf of the Center for a Competitive Waste Industry (“The Center”), a non-profit research and advocacy organization dedicated to the protection of a competitive waste industry. The Center advances efforts to restore and maintain competition in the solid waste industry of especial interest for public works directors, independent haulers, businesses using solid waste services, and recyclers. These stakeholders and ultimately consumers will be harmed from this merger even if the PFJ is implemented in its current form. The merger will result in a dominant waste hauling and disposal company with the unilateral ability to reduce competition in the waste industry and extend its market power into the recycling industry, thereby raising prices for consumers while simultaneously reducing services to these consumers.

II. Procedural Background

In June 2008, Republic announced its proposed purchase of Allied for \$4.5 billion. In July, the DOJ issued a “second request” under the Federal Hart-Scott-Rodino Antitrust

Improvements Act of 1976, seeking more information. The States of California, Kentucky, Michigan, North Carolina, Ohio, Pennsylvania and Texas conducted simultaneous investigations.

On December 3, 2008, the DOJ and the several States mentioned above filed an enforcement action to enjoin the merger of Republic and Allied. The DOJ action claimed that the merger would pose significant competitive problems in the SCCWC market in 9 geographic areas and the MSW market in 13 geographic areas because the merged firm would substantially lessen competition by reducing the number of significant competitors and permitting a single firm to control a substantial market share in each geographic area in each product market. The DOJ alleged this would result in higher prices, fewer choices, and a reduction in the quality of waste services provided in these areas. The PFJ attempts to address these issues by requiring just the divestiture of SCCWC assets (including hauling routes, trucks, containers and customer lists) in 9 markets, and MSW disposal assets (including landfills, transfer stations, airspace disposal rights, and storage) in 13 markets.

III. The Tunney Act Standards

The Tunney Act requires that “[b]efore entering any consent judgment proposed by the United States * * *, the court shall determine that the entry of such judgment is in the public interest.”, 16 U.S.C. § 15(e)(1). In applying this “public interest” standard, the burden is on the government to “provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.” *United States v. SBC*, 489 F.Supp. 2d 1, 16, (D.D.C. 2007), citing *United States v. Microsoft Corp.*, 56 F.3d 1448, 1460–61 (D.C. Cir. 1995).

The 2004 Congressional amendments to this Act specifically overruled District of Columbia Circuit Court of Appeals and District Court precedent that was deemed overly deferential to Antitrust Division consent decrees.¹ In

¹ In this matter, the DOJ may claim that the court’s review is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to go beyond the scope of the complaint. See Fed. Reg. Vol. 73, No. 47, at 12774 (March 10, 2008). We believe that view is inconsistent with the legislative history of the 2004 Amendments to the Tunney Act. Congress amended the Tunney Act in 2004 to overrule District of Columbia Circuit Court of Appeals and District Court precedent that was overly deferential to Antitrust Division consent decrees. The amendments to the Tunney Act *compel* the reviewing court to consider, inter alia, the “impact” of the entry of judgment on “competition in the

response to those decisions, Congress reemphasized its intention that courts reviewing consent decrees “make an independent, objective, and active determination without deference to the DOJ.”² Courts are to provide an “independent safeguard” against “inadequate settlements”.³ Specifically, the Act was amended to *compel* reviewing courts to consider both “ambiguity” in the terms of the proposed remedy, as well as the “impact” of the proposed settlements on “competitors in the relevant market or markets.”⁴ Moreover, Congress adopted these 2004 amendments to highlight the expectation that an independent judiciary would oversee proposed settlements to ensure that those settlements met the needs of consumers.

We submit the DOJ has an extra burden to justify the limited relief in this case. First, parties in these markets have failed to abide with past DOJ merger decrees and the DOJ has brought enforcement actions to compel compliance with decrees. Second, the PFJ is inconsistent with past enforcement actions. Third, the PFJ is internally inconsistent requiring certain types of remedies in some markets and not others. Fourth, it relies at its center upon an asset divestiture remedy that has demonstrably failed to provide offsetting relief from the anticompetitive effects of major consolidation. Finally, the PFJ does not address several markets that will be adversely affected by the merger.

As to the PFJ, we submit it is inadequate because it fails to provide for airspace disposal rights, access to landfills, nondiscriminatory access and modification of evergreen contracts divestiture.

IV. The PFJ Needs a Monitor Trustee to Ensure Compliance

Waste firms’ failure to abide with past merger divestitures raises significant concerns about the adequacy of the

relevant market.” See Pub. L. 108–327, § 221(b)(2) rewriting 15 U.S.C. § 16(e).

No suggestion is made in the statute or legislative history that the courts should defer to either the Government’s identification of injury or the Government’s proposed remedy to that injury. On the contrary, as one of the authors of the legislation noted, the reviewing court is to achieve an “independent, objective, and active determination without deference to the DOJ.” See 150 Cong. Rec., S 3617 (April 2, 2004) (Statement of Sen. Kohl).

For criticism of the overly deferential standard see Darren Bush and John J. Flynn, *The Misuse and Abuse of the Tunney Act: The Adverse Consequences of the “Microsoft Fallacies”*, 34 *Loy. U. Chi. L.J.* 749 (2002–2003).

² See 150 Cong. Rec., S 3617 (April 2, 2004) (Statement of Sen. Kohl).

³ *Id.*

⁴ *Id.*

remedy in this case. Two examples are illuminating.

In 1999, Allied merged with Browning Ferris Industries (“BFI”). The merger was cleared after the requirement of divestiture of several landfills, incinerators, airspace disposal rights, transfer stations, and commercial hauling routes. In August 2004, the DOJ brought a contempt order against Allied for prematurely terminating landfill disposal rights in a divested asset as part of the Allied/BFI merger. The DOJ secured a fine of \$10,000 per day for every day in violation of the untimely termination and required a comprehensive compliance program for Allied’s relevant management-level employees.⁵

In 2000, Allied attempted a merger with Republic that resulted in a number of divestitures in hauling routes and contract revisions limiting contracting periods and requiring renewal notices in a number of affected markets. In November 2004, the DOJ brought a contempt action against Republic for failing to comply with certain contract revision requirements. This resulted in the payment of a \$1.5 million fine to the Department of the Treasury.⁶

We believe that these violations raise serious concerns about Republic’s likely compliance with the provisions of the PFJ and highlight the need to strengthen the PFJ provisions. One of the approaches the DOJ has taken in cases where a firm that has violated past orders proposes to resolve a merger through a divestiture is to appoint a monitor trustee to ensure that the parties fully comply with the PFJ.⁷ We suggest that the PFJ be modified to immediately impose the use of a monitor trustee to ensure compliance with the order.

V. The DOJ Has Arbitrarily Departed From Its Past Antitrust Enforcement Policies in Waste Mergers and Should Restrict Evergreen Contracts and Liquidated Damage Provisions Consistent With Past Actions

Even though the waste markets have become more concentrated and there is evidence that past orders have not been complied with the DOJ’s PFJ is actually weaker than orders in past waste mergers. In past enforcement actions the

⁵ See DOJ Press Release (Aug. 2, 2004), available at http://www.usdoj.gov/opa/pr/2004/August/04_crt_529.htm.

⁶ See DOJ Press Release (Nov. 30, 2004), available at http://www.usdoj.gov/atr/public/press_releases/2004/206569.htm.

⁷ Proposed Final Judgment, *US v. Computer Associates International, Inc. and Platinum Technology International, Inc.*, Case No. 99CV01318 (D.D.C., May 25, 1999).

DOJ has relied on various forms of behavioral relief in addition to divestiture of assets in order to ensure that mergers between MSW companies do not harm competition.⁸ If DOJ has changed its enforcement policy on waste services mergers it bears an obligation to disclose the reasons for those changes, so that the court can determine whether entry of the PFJ is in the public interest.

For example, the 2000 Allied/Republic merger Final Judgment required modification of commercial waste hauling contracts to limit contract durations and the availability of liquidated damages by the merging firms. As described below, initial contracts were limited to two years, with renewal contracts limited to one.⁹ Although included as a key component of the 2000 Allied/Republic decree, contract revision requirements are noticeably absent from the PFJ in this case.

Second, the PFJ permits Allied to reacquire assets it was required to divest as a condition of previous final judgments ("FJs"). The Allied/BFI merger in 1999 resulted in Allied being ordered to divest the Newnan Transfer Station, which was purchased by Republic.¹⁰ As a result of the Allied/Republic merger, the transfer station will once again be owned by Allied, in contravention of the FJ. The DOJ has consented to the reacquisition because the "focus of the Newnan Transfer Station changed under Republic ownership," other transfer stations accept waste that previously went to Newnan, and because the transfer station "competes much less directly with other disposal facilities in the Atlanta area."¹¹ Regardless of the impact of the shift in ownership on the status of the previously divested asset, permitting Allied to reacquire assets previously divested represents a departure from previous agreements preventing such reacquisitions.

Third, the PFJ fails to limit the ability of the merged firm to use evergreen contracts. In past enforcement actions, the DOJ has repeatedly acknowledged the significance of evergreen contracts

and the impact of such contracts on competitiveness in local waste hauling markets. For example, in the 2000 Republic/Allied merger the DOJ articulated the important reasons for restricting evergreen contracts:

[T]he common use of long-term self-renewing "evergreen" contracts by existing commercial waste collection firms can leave too few customers available to the entrant in a sufficiently confined geographic area to create an efficient route. These contracts often run for several years and frequently have high liquidated damage terms which make it costly to a customer who wishes to change its collection service without giving proper notice. When giving proper notice, the customer must often inform the firm in writing 60 days before the contract renews. This time period allows the incumbent firm an opportunity to react to a prospective entrant's solicitation to that customer. The incumbent firm can inquire why the customer wishes to change its service, and if a prospective entrant has offered a lower price, the incumbent can lower its price to retain the customer. This can result in price discrimination; i.e., an incumbent firm can selectively (and temporarily) charge unbeatably low prices to some customers targeted by entrants, a tactic that would strongly inhibit a would-be entrant from competing for such accounts, which, if won, may be unprofitable to serve, and would limit its ability to build an efficient route. Because of these factors, a new entrant may find it difficult to compete by offering its services at pre-entry price levels comparable to the incumbent.¹²

The DOJ also recognizes similar concerns in the present case. Particularly in the commercial waste hauling industry, "the incumbent's ability to engage in price discrimination and enter into long-term contracts with collection customers is effective in preventing new entrants from winning a large enough base of customers to achieve efficient routes in sufficient time to constrain the post-acquisition firm from significantly raising prices."¹³ Moreover, "incumbent firms frequently use three to five year contracts, which may automatically renew or contain large liquidated damage provisions for contract termination."¹⁴

¹² Competitive Impact Statement, *United States v. Allied Waste Industries, Inc. and Republic Services, Inc.*, Case No. 1:00-cv-01469 (D.C. Dist. 2000).

¹³ Complaint, *United States v. Allied Waste Industries, Inc. and Republic Services, Inc.*, Case No. 1:08 CV02076 (D.C. Dist. 2008) at 20.

¹⁴ *Id.*

However, despite this clear acknowledgement of the serious competitive problems posed by long-term commercial waste-hauling contracts, the PFJ does not provide a remedy. The PFJ fails to require the modification of evergreen contracts that severely limit customer choice and provide formidable barriers to entry for potential competitors. As a result, the success of other remedies, like asset divestitures, is jeopardized, especially in markets in which commercial waste hauling routes are not being divested. In the absence of a reliable customer base and without the opportunity to entice competitors' customers to switch firms, new competitors will be unable to build efficient routes capable of generating a profit. These new "competitors" will be quickly precluded from providing any meaningful competition.

In previous waste hauling merger cases, the final judgments have included provisions limiting both the length of contracts by merging firms for commercial waste collection services and the circumstances under which the contracts renew. For example, in the 2000 Allied/Republic merger, the FJ required that commercial waste hauling contracts be revised to adhere to strict limits.¹⁵ New contracts were limited to two years, and renewal contracts could not exceed one year. The FJ also attempted to decrease the effectiveness of automatic renewal provisions by forbidding contracts from requiring customers to provide written notice of termination more than 30 days before the end of the contract term. Liquidated damage provisions were also limited to no more than three times the customer's average monthly charge during the first year, and two times the average monthly charge for subsequent years. In order to provide relief for existing customers, Allied and Republic had to offer the revised contract terms to customers who previously agreed to "evergreen" contracts.

In this case we recommend adding the requirement of modifying the merging firms' current contracts consistent with the Allied/Republic matter. The customer should be permitted to cancel the contract without penalty after one year in the case of non-compacting container service, and after two years for compacting container service; automatic renewal provisions should be prohibited except if the customer's express written agreement is secured; liquidated damages should not exceed charges for the last three months in cases where

¹⁵ Final Judgment, *United States v. Allied Waste Industries, Inc. and Republic Services, Inc.*, Case No. 1:08 CV2076 (D.C. Dist. 2008) at XII.

⁸ See e.g., Final Judgment, *United States v. Allied Waste Industries, Inc. and Republic Services* (D.C. Dist. 2000) at XII.

⁹ Notably, Republic's alleged failure to adhere to the contract revision requirements of the FJ resulted in Republic making a \$1.5 million payment to settle a civil contempt claim. See "Republic Services Inc. Agrees to Pay \$1.5 Million Civil Penalty," Dept. of Justice Press Release, Nov. 30, 2004.

¹⁰ Modified Final Judgment, *United States v. Allied Waste Industries, Inc. and Browning-Ferris Industries, Inc.*, Case No. 1:99CV01962 (D.D.C. 1999).

¹¹ *Id.*

they would apply; escalator charges should be barred unless the specific basis of the calculation is based upon an independent third party's index, clearly stated in the contract, and shown in the bill as a separate line; and any escalator must also operate reciprocally when the index declines as when it increases.

VI. The Remedies in the PFJ Are Internally Inconsistent and the PFJ Should Be Modified To Require Divestiture of Airspace Rights and Restrictions on the Sales of the Assets in all Markets

The PFJ identifies similar threats to competition due to increased concentration in 15 markets. In each affected market recognized in the PFJ, initially high concentration levels are exacerbated by further consolidation by Allied/Republic. In the majority of markets, the resulting Allied/Republic market presence will be at least 50 percent, with no more than three significant competitors. However, the PFJ does not respond to similar market concentration problems with similar remedies. Despite the consistency of prevailing market conditions cited in the PFJ, the remedies vary widely from market to market.

For example, the PFJ provides for the divestiture of airspace disposal rights, or landfill space, in several local markets, but requires that such rights remain with the acquirer for varying durations and upon varying terms. Airspace disposal rights are to be divested only in Houston, Texas, Northwest Indiana, and Philadelphia, Pennsylvania, and not in any of the other markets addressed in the PFJ. Although the PFJ allows for a 10-year contract in Houston, the Indiana and Philadelphia contracts extend for only two years and 18 months, respectively. Neither the Competitive Impact Statement nor the PFJ offer an explanation as to why a lengthy contract is appropriate in one market, but contracts of only minimal duration are acceptable in the others. Moreover, no explanations are offered as to why airspace disposal rights are an unnecessary remedy in other markets. Although the lengthy contract required in Houston may provide disposal rights of a sufficient duration to support a purchaser's needs, given that no landfills are to be divested in either Indiana or Philadelphia, minor provisions granting short-term airspace disposal rights contracts to purchasers are likely to be insufficient to address their disposal needs in any meaningful way.

Airpace rights are crucial to the success of the PFJ in restoring competition. We believe the PFJ should

be modified to confer upon independent haulers, namely those without their own landfill assets, the legal right to acquire 15-year contracts for space in Republic/Allied landfills in all markets that are highly concentrated under the Merger Guidelines, or at least the 15 markets that are the subject of the PFJ. These independent haulers should be given the right to secure access non-discriminatorily at the same price that the companies' corporate headquarters have internally billed their divisions, and up to 150% of the volumes the independent hauler has averaged for the past five years. To insure non-discriminatory treatment, Attachment A sets forth proposed terms.

In the alternative, in the event airspace remedies are not afforded in all overlapping markets that the DOJ Merger Guidelines predict will result in the acquisition of market power, at the very least those markets identified by the PFJ as possessing those impacts should be provided with an airspace remedy. If not, in the alternative, the three markets that the PFJ does provide some airspace rights should be enhanced to include the essential type of protections set forth in Attachment A. For without specific and enforceable protections against discriminatory conduct, such as subjecting the trucks of the independent haulers with these contracts to long waits at the landfill, the right will be eviscerated in practice. Ironically, this is exactly what was done to Republic when it purchased similar rights to the 1998–99 merger spinoffs in Florida without anti-discriminatory protections.

Similarly, the PFJ restricts the sales of the divested assets so that all the assets are offered for sale individually. However, this restriction is imposed in only four markets: Atlanta, Georgia; Cleveland, Ohio; Philadelphia, Pennsylvania and Fort Worth, Texas. The DOJ explains that the restrictions in those markets operate to increase the pool of potential bidders.¹⁶ In order to encourage bidding from local and regional firms who may not be interested in or capable of purchasing a large group of divestiture assets, the DOJ requires that certain divestiture assets in certain markets be offered for separate purchase. However, the DOJ fails to indicate why assets in the four markets selected for individual sale are uniquely well-suited to be packaged independently. The choice to restrict the sale of assets in certain markets with the idea of encouraging purchase by local or regional firms is particularly significant given the extreme levels of

concentration in all of the markets addressed in the PFJ. We believe that the goal of encouraging new entrants in the commercial waste hauling industry will be better served by requiring the divested assets in each individual market to be offered for sale individually rather than in a package.

VII. The PFJ Should be Modified to Prevent Divestiture to Other Members of the Waste Oligopoly and Provide for Nondiscriminatory Access

We believe that the merger ought not to have been approved in the first instance. If it is approved nonetheless, we ask that eligible buyers be restricted, just as the PFJ attempts to do in four markets (Atlanta, Cleveland, Philadelphia and Fort Worth), but does so with such imprecision as to be marginally useful even there.

The waste hauling industry currently functions as an oligopoly, with only two or sometimes three national or regional companies vertically integrated into landfill competing in a given local market: Waste Management, Allied, Republic, BFI, and Waste Connections. This extreme level of concentration has allowed the top companies to continually and inexorably increase their control of crucial waste hauling assets. For example, the three largest waste hauling companies controlled 68 percent of landfill space in 2004, up from 35 percent in 1994.¹⁷ The consolidation of the waste hauling industry has not escaped public notice, as an article in the Wall Street Journal recently noted:

“The country's three largest garbage haulers have been steadily raising prices despite the slowing economy. And with a major buyout among them looming, prices are likely to continue their climb.

“The increases are a break from the recent past, and follow a strategy shift in the wake of the industry's 1990s consolidation. They also followed some blunt, public suggestions about pricing by the companies' top executives * * *

“Another big merger among the waste giants could spur ever higher contract prices, say industry observers. The big three trash companies already control about two-thirds of the landfill business.”¹⁸

While alluding to the dramatic consolidation of waste hauling companies during the 1990s,¹⁹ the

¹⁷ Raymond James, *Landfill Pricing Power*, Waste Business Journal, Landfill Data Bases (2003).

¹⁸ Ilan Brat, *Garbage Haulers Hoist Prices: Truce Allows Waste Management, Allied and Republic to Push Higher*, Wall Street Journal (Sept 18, 2008).

¹⁹ The increase in consolidation of waste hauling firms was aided by a sharp decrease in the number of functioning landfills from 7900 in 1989 to 2142

¹⁶ Competitive Impact Statement at 25.

article also highlights the current levels of consolidation and the role of Allied and Republic in the waste hauling oligopoly. The merger between Allied and Republic will reduce the big three waste hauling companies to two, drawing the wave of consolidations begun in the 1990s to a near close. As the Wall Street Journal article notes, the current conditions in the waste hauling industry have already allowed the three largest firms to raise prices. In the absence of sufficient safeguards to protect and promote competition in local markets, the ability of the new big to firms to control prices may continue to increase dramatically.

In past enforcement actions, the DOJ has agreed that sales should be barred to the other top three firms in this market.²⁰ But even selling assets to the fourth largest competitor in a market, will effectively allow the fourth player to become number three immediately after a merger of two of the top firms, as the current case demonstrates.²¹ Most divested assets in this industry are too expensive to be acquired by independent haulers and smaller sized firms who do not have the capital or the resources to purchase the assets as a package.

Moreover, the PFJ limits itself to divestiture of assets and does not include mechanisms for non-discriminatory access to landfill disposal and airspace rights. Non-discriminatory access would require, for

in 2001. See Ralph E. Townsend and Francis Ackerman, *An Analysis of Competition in Collection and Disposal of Solid Waste in Maine*, 19, Dec. 31, 2002, available at http://www.maine.gov/ag/dynld/documents/Solid_Waste_Report.pdf.

²⁰ Hold Separate Stipulation, *U.S. v. USA Waste*, Case No. 98CV1616 (N.D. Ohio, July 23, 1998); Hold Separate Stipulation, *U.S. v. Allied Waste*, Case No. 99CV07962 (D.D.C. July 20, 1999); Hold Separate Stipulation, *USA v. Waste Management*, Case No. 98CV7168 (E.D.N.Y. February 2, 1999).

In Waste Management's 1999 acquisition of Eastern Environmental Services, Allied attempted to purchase a number of Waste Management divestiture assets, but J. Robert Kramer, chief of the Justice Department's Litigation II section, rejected these sales to another an oligopoly member, "[s]uch a sale, we concluded, would raise serious competitive concerns in waste collection or disposal or both in virtually all the markets for which the judgment has ordered relief." Bob Brown, DOJ Letter Squashed Allied Deal, Waste News.com (May 31, 1999).

²¹ On February 9, 2009, Waste Connections, the fourth largest waste company nationally, announced an agreement with Republic to purchase \$110 million in divestiture assets across seven markets required by DOJ as a part of the Republic and Allied merger requirements. This is particularly troubling given that if this merger is to be approved, Waste Connections will become the third largest waste company nationally and a large member of the waste oligopoly effectively having the ability to maintain anticompetitive market concentration and behavior.

example, a landfill owner to sell disposal rights to an independent hauler at the same rate it charges its local subsidiary, or providing equal access to landfills without ability to incumbent firms to discriminate. The PFJ makes provisions for the divestiture of landfills and landfill rights, transfer stations, commercial hauling routes, and limited airspace disposal rights in the affected markets. As the PFJ notes, a new entrant to commercial waste collection "cannot provide a significant competitive constraint on the prices charged by market incumbents until it achieves minimum efficient scale and operating efficiencies comparable to existing firms."²²

These divestitures will not be effective without providing nondiscriminatory access to landfills. Given the current and widespread oligopoly in commercial waste hauling, firms in a position to purchase divested assets will likely either be existing members of the oligopoly or small local or regional firms in need of further assistance in order to be competitive. Non-discriminatory access is necessary to allow independent and smaller waste firms to compete in an increasingly concentrated market of oligopolies. In highly concentrated markets, oligopolists have the ability to control prices requiring smaller firms to pay higher prices to even attempt to compete, which are eventually passed on to the consumer. This is evidenced by the "eye-popping spot market price hikes" averaged at 89% immediately after the DOJ approved the USA-Waste/Waste Management merger in 1999.²³ In any instance, divestiture of assets alone is unlikely to fully restore competition without additional mechanisms to ensure their enforcement.

We recommend that the PFJ be modified to limit the sales of assets to the top five municipal solid waste companies, namely, Waste Management, Republic Services, Veolia Environmental Services, Waste Connections and BFI Canada in order to reduce the risk of divestitures becoming little more than a game of musical chairs among other oligopoly members instead of a measure with any chance of restoring competition. In the event that independent haulers without their own disposal facilities are unable to afford certain divested assets, they can be sold the hauling assets and given the right to long-term contracts for airspace in the merged companies' landfills at the same price that the local subsidiary is billed

by its parent. This will dissuade anticompetitive concentration in localized markets and permit more access and new entry allowing for competitive pricing of disposal and hauling services, and ultimately improve price and service to the consumer. Finally, we recommend that independent haulers be given nondiscriminatory access to landfills.

VIII. The PFJ Fails To Address Concentration in the Majority of Affected Markets

The PFJ includes remedies for many markets, but fails to include the vast majority of affected markets. The PFJ requires a combination of landfills and landfill disposal rights to be divested in 11 markets, but fails to require divestiture in other markets that have an equal or greater level of concentration. For example, the complaint identified Fort Worth, Texas and Cleveland, Ohio, with premerger HHIs of 2267 and 1928 respectively, as requiring remedial measures. Although the DOJ Merger Guidelines generally consider a market with an HHI greater than 1800 to be highly concentrated, in this case the DOJ ignores several markets with an HHI for waste disposal in tons per day in excess of 4800. The PFJ also fails to secure relief in dozens of markets with HHIs in excess of 2500, which are likely to suffer adverse effects from the further consolidation of commercial waste hauling services.²⁴

In an independent analysis of the impact of this merger, the Center for a Competitive Waste Industry identified at least 78 separate highly-concentrated geographic markets in which this merger will cause significant and sustained competitive harm and substantial increases to Republic's market power.²⁵ Additionally, it found at least 46 of these markets will become so concentrated that they result in post-merger HHIs of more than 2500.

Moreover, the PFJ includes remedies in markets in California, Colorado, Georgia, Indiana, Kentucky, Michigan, Missouri, North Carolina, South Carolina, Ohio, Pennsylvania, and Texas, but Illinois is noticeably absent from the list. The DOJ does not seek divestitures in any market in Illinois, despite the State having six markets exhibiting extreme levels of

²⁴ Examples of markets exhibiting extreme levels of concentration that are likely to be negatively impacted by the Allied/Republic merger include: Lafayette, Elkhart, and Terra Haute, Indiana; Mansfield, Ohio; and Saginaw, Grand Rapids, and Kalamazoo, Michigan.

²⁵ The Center for a Competitive Waste Industry, *Projected Impacts on Competition from the Merger of Republic Services and Allied Waste* (Nov. 14, 2008).

²² Proposed Final Judgment at paragraph 48.

²³ Bob Brown, *WMI Raises Tip Fees*, Waste News (Mar 1, 1999).

concentration, and four with post merger HHI's greater than 4000.²⁶

IX. Proposed Remedies

The PFJ falls short of adequately remedying the anticompetitive problems at issues here.

- First and foremost, if this merger—which creates a duopoly with overwhelming market power—is to be allowed, the landfill asset divestiture must be eschewed in overlapping markets, and replaced with the right of independent haulers to fairly contract for air space in the merging firms' landfills. The DOJ recognized this alternative, but only did so in three markets and in such a crabbed fashion that their effective enforcement would be dysfunctional. Properly structured for fair application, the air space remedy should be offered to independent haulers in every highly concentrated market.

- Second, due to the already highly concentrated market, and based on past evidence of intentional consolidation, where asset divestitures are nonetheless utilized, the largest five vertically integrated waste firms, which are least inclined to pursue a competitive model, should be ineligible to buy those assets.

- Third, evergreen contracts, as they once had been, should be sharply curtailed to minimize their indisputably anticompetitive effects in those markets.

- Finally, because of the failure of past divestitures in this industry, and the history of non-compliance of consent decrees by the merging parties, a monitor, paid by the Department and States with fees levied on the applicant should be established to enforce the terms of the final order and serve for a term of not less 10 years.

Overall, we believe the remedies should be strengthened in the following fashion:

- There should be divestiture of assets in both the SCCWC and MSW disposal markets in local affected geographic areas not named in the PFJ.

- Because these markets consist of oligopolies' with lock holds on local landfills, which create bottlenecks that impede new entry, divested assets should be sold to independent haulers with the right to contract for airspace in the merger companies' landfills.

- Use of the merged companies' evergreen contracts ought to be discontinued, especially in their term

lengths, renewal provisions, liquidated damages, and escalator clauses.

- There should be the appointment of a monitor trustee to ensure compliance with the final judgment.

VIII. Conclusion

After investigation lasting over half a year of a merger posing an unprecedented level of concentration in numerous local markets in the United States, the DOJ chose modest divestitures and limited airspace contracting in a small number of affected geographic regions. In doing so it ignored the very fact of this merger, in which yesterday's white knight now stands before the DOJ as today's ultimate consolidator, proves that, in this industry, asset divestitures do not work in almost all cases.

This PFJ will not fully restore competition and is inconsistent with past DOJ waste enforcement actions. But more important, the PFJ fails to address the significant loss of competition due to the inability of independent haulers to compete with the highly concentrated waste firms in these local markets and the oppressive evergreen contracts with the merging companies' customers. The DOJ action permits a merger that poses a significant threat of causing substantial harm to consumers.

Thus, we believe the PFJ should be rejected. If the court however accepts the PFJ, we strongly urge it to treat the PFJ as an interim remedy and expressly leave open the possibility of supplementing the PFJ with additional remedies to address these competitive concerns.

Respectfully Submitted,

/s/

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Attachment A

Long Term Air Space Contract

1. *Eligible Buyers.* Any municipal solid waste or construction and demolition debris service provider, whether publicly or privately owned, which serves the local market in the year in which the HSR notification was filed, and does not in that year have its own landfill assets, is eligible to purchase airspace as provided here.

2. *Maximum Volume.* Eligible buyers may contract for a maximum volume of airspace at any landfill owned by the merged company and previously used by it to serve the market, in amount up

to 150% of the tons the buyer collected from its customers, in the year in which it disposed of the greatest quantity during the prior five years, multiplied by 15 years. The eligible buyer may dispose of up to one-tenth of the maximum volume of waste in any year during the length of the contract, but is not required to dispose of any minimum quantity. Volume shall be converted into weight based upon the density of waste in the landfill in the year the HSR notification is filed.

3. *Price.* The price for disposal in that airspace under the contract may not exceed that which had been internally booked by the parent firm that owned the landfill prior to the merger and charged to its district unit, adjusted annually for inflation by the producer price index.

4. *Length of Contract.* The contract shall be for not less than 15 years.

5. *Purchase Period.* Each State Attorney General in the States with local markets affected by this provision shall timely notify eligible buyers about the opportunity for them to purchase airspace rights. Eligible buyers have 6 months from entry of the settlement or court order to request in writing from the merged company, with copies to the DOJ and State Attorney General, for a contract for airspace as provided here. If the eligible buyer has a contract for airspace at a landfill that is closed prior to the end of the 15-year period, the merged company shall permit the buyer to contractually substitute airspace at another of the merged company's landfills in the market of its choosing.

6. *Non-Discrimination.* (a) *Inspections.* If the seller of landfill airspace conducts inspections of incoming loads to its landfills at which airspace has been contracted for the purpose of rejecting certain loads, it must do so on a non-discriminatory basis as between its trucks with and those with airspace contracts. The seller must also maintain publicly available documentation to show that loads selected for inspection, and the type and severity of violations used to justify rejecting loads, are done on a non-discriminatory basis, including an accurate video record of all inspections and a tabulation of the number of truck loads dumping at the landfill by waste firm and the number of loads rejected, along with the reasons why. (b) *Queues.* Gate queues shall be non-discriminatory. If an airspace buyer claims that its trucks are kept on a longer queue than the seller's, the seller will visually record the queue and make tapes publicly available. (c) *Arbitration.* The buyer may take claims of discriminatory treatment to arbitration.

²⁶ See Attachment B for a table of the pre and post-merger landfill HHI concentration by state in the specific metropolitan areas where high levels were found based upon tons per day disposed of in the market in 2007, and also the remaining life that year.

If the seller loses the arbitration, he or she must pay the costs of arbitration, including the buyer's legal fees. A record of all complaints and arbitrations will be filed with the State Attorney General.

7. *Succession or Sale.* Landfill airspace contracts shall transfer to

successor companies. Holders of landfill airspace contracts may sell their contract to another firm, if that other firm does not own landfill assets.

8. *Dispute Resolution.* If either the merged company or eligible buyer has any other dispute with the other that is not finally resolved under ¶6, DOJ will

delegate the arbitration resolution process to the applicable State Attorney General, who may either, after hearing from both sides, issue a final decision, or submit the issue on behalf of the parties for final resolution to arbitration.

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ATTACHMENT B

CONCENTRATION ANALYSIS OF REPUBLIC-ALLIED MERGER											
States	Metropolitan Statistical Area	5 Firm % TPD	Concentration Ratio						Summary		
			Tons per Day			Remaining Life			DOJ	AG	ITW
			Pre HHI	Post HHI	Delta	Pre HHI	Post HHI	Delta			
California	Bakersfield	35%	1263	1353	90	1238	1366	128	●	●	
	Fresno	64%	1552	1934	382	2003	2066	64	●	●	
	Los Angeles	39%	1287	1461	173	1489	1677	188	●	●	
	Modesto	65%	1436	2280	844	1766	2437	671	●	●	
	Riverside	45%	1251	1716	465	2195	3552	1356	●	●	
	Sacramento	58%	1432	2198	766	1871	2235	364	●	●	
	Salinas	70%	1582	2532	951	1699	2348	649	●	●	●
	San Diego	41%	1421	1621	199	1795	2030	236	●	●	
	San Francisco	63%	1548	2506	958	1812	2527	715	●	●	●
Stockton	63%	1516	2418	903	1825	2520	695	●	●		
Georgia	Atlanta	54%	1033	1378	345	1053	1242	189	●	●	
	Augusta	72%	1833	2660	827	1465	1925	460	●	●	
	Chattanooga	65%	1624	1877	253	1516	1568	52	●	●	
	Columbus	54%	1074	1716	642	1163	1593	430	●	●	
	Savannah	70%	3004	3004	0	2441	2441	0	●	●	●
Illinois	Bloomington	82%	6751	6751	0	5589	5589	0	●	●	●
	Champaign	87%	2980	4252	1272	3519	4851	1331	●	●	
	Chicago	87%	2042	2883	841	2322	3268	946	●	●	
	Davenport-Moline	76%	2713	2894	181	2576	2759	183	●	●	
	Decatur	82%	3864	4850	986	3669	4342	673	●	●	
	Ortowa	86%	2351	2662	310	2582	2744	162	●	●	
	Peoria	79%	4452	4452	0	4080	4080	0	●	●	●
	Rockford	90%	2328	2611	283	2509	2682	173	●	●	
	Springfield	81%	3135	3135	0	3146	3146	0	●	●	●
St. Louis	72%	1984	2395	411	1683	1991	308	●	●		
Indiana	Bloomington	58%	1619	2087	469	1847	2557	710	●	●	
	Chicago	87%	2110	2981	871	2389	3364	975	●	●	
	Elkhart	85%	2645	4357	1712	3198	4852	1654	●	●	
	Evansville	58%	1619	2087	469	1847	2557	710	●	●	
	Fort Wayne	77%	2203	3933	1730	2398	4482	2084	●	●	
	Indianapolis	69%	1809	2791	982	2074	3659	1585	●	●	
	Lafayette	85%	2693	4654	1961	3339	5175	1836	●	●	
	Louisville	57%	1681	1973	291	2175	2731	556	●	●	
South Bend	90%	2462	3865	1403	2946	4308	1363	●	●		
Terre Haute	88%	3364	4511	1147	3920	4845	925	●	●		
Michigan	Ann Arbor	87%	2621	3689	1068	2182	3118	936	●	●	
	Detroit	86%	2679	3663	984	2230	3198	967	●	●	
	Flint	88%	2704	3703	999	2301	3118	817	●	●	
	Grand Rapids	88%	2517	3997	1480	2479	3931	1453	●	●	
	Holland	89%	2833	3260	427	2806	3282	476	●	●	
	Jackson	88%	2544	3861	1317	2293	3688	1395	●	●	
	Kalamazoo	93%	2491	3806	1315	2501	4081	1579	●	●	
	Lansing	86%	2518	3657	1139	2275	3216	940	●	●	
	Muskegon	90%	2823	3243	420	2633	3162	529	●	●	
	Saginaw	89%	2800	3779	979	2444	3342	898	●	●	
N Carolina	Asheville	57%	1345	96	-1249	0	53	53	●	●	
	Charlotte	48%	1185	1424	239	565	730	165	●	●	
	Durham	58%	1499	1826	327	4325	4375	51	●	●	●
	Fayetteville	43%	1319	1506	187	628	739	110	●	●	
	Greensboro	50%	1957	2364	407	910	1221	311	●	●	
	Greenville	65%	2097	2394	297	5604	5639	35	●	●	●
	Hickory	52%	1348	1499	151	756	885	129	●	●	
	Raleigh	62%	1717	2047	329	4137	4204	67	●	●	
	Wilmington	27%	1448	1448	0	2538	2538	0	●	●	●
Winston-Salem	43%	874	1152	277	537	713	176	●	●		

continued from previous page

States	Metropolitan Statistical Area	5 Firm % TPD	Concentration Ratio						Summary		
			Tons per Day			Remaining Life			DOJ	AG	ITW
			Pre HHI	Post HHI	Delta	Pre HHI	Post HHI	Delta			
Ohio	Akron	79%	2643	3705	1062	2457	3615	1157	●	●	
	Canton	75%	2247	3177	929	2188	3008	815	●	●	
	Cincinnati	49%	1528	1807	278	1712	2043	331	●	●	
	Cleveland	82%	2338	3566	1227	1807	2798	991	●	●	
	Columbus	60%	1583	2466	883	3338	5669	2331	●	●	
	Dayton	49%	1358	1849	491	1428	1800	373	●	●	
	Mansfield	80%	2400	4181	1780	1878	3142	1264	●	●	
	Springfield	43%	1546	1931	385	1667	1919	252	●	●	
	Toledo	82%	2223	3518	1295	1965	3317	1352	●	●	
Youngstown	83%	2129	2824	695	1968	2713	745	●	●		
Pennsylvania	Allentown	39%	1012	1094	82	1107	1157	50	●	●	
	East Stroudsburg	45%	1269	1376	107	1531	1612	81	●	●	
	Erie	77%	1988	2852	864	1831	2729	897	●	●	
	Harrisburg	44%	1248	1248	0	1215	1215	0	●	●	
	Lancaster	39%	1012	1094	82	1107	1157	50	●	●	
	Philadelphia	32%	769	815	46	802	829	27	●	●	
	Pittsburgh	73%	1758	2173	415	1806	2257	451	●	●	
	Reading	37%	925	989	64	970	1011	41	●	●	
	Scranton	39%	1179	1259	80	1917	1949	32	●	●	●
York	43%	1253	1318	65	1102	1138	36	●	●		
Texas	Austin	64%	2336	2336	0	2152	2152	0	●	●	●
	Beaumont	76%	2382	3006	624	1948	3143	1195	●	●	●
	Brownsville	69%	2656	2656	0	2836	2836	0	●	●	●
	Corpus Christi	69%	2656	2656	0	2836	2836	0	●	●	●
	Dallas	41%	1156	1254	98	1452	1560	108	●	●	
	El Paso	73%	4633	4633	0	7348	7348	0	●	●	●
	Houston	70%	2588	2588	0	2262	2262	0	●	●	●
	Killeen	45%	1437	1545	108	1780	1908	128	●	●	
	McAllen	34%	2468	2468	0	3636	3636	0	●	●	●
San Antonio	71%	2784	2784	0	3092	3092	0	●	●	●	
Wisconsin	Appleton	89%	3768	3808	41	2829	2878	49	●	●	●
	Duluth	92%	3264	3264	0	3989	3989	0	●	●	●
	Eau Claire	88%	2853	2853	0	3378	3378	0	●	●	●
	Green Bay	89%	4410	4410	0	3190	3190	0	●	●	●
	Janesville	90%	2361	2558	197	2247	2370	123	●	●	●
	La Crosse	81%	2932	2932	0	2968	2968	0	●	●	●
	Madison	88%	2439	2572	134	2238	2306	68	●	●	
	Milwaukee	88%	2219	2636	416	1838	2312	473	●	●	
	Oshkosh	90%	4028	4028	0	3190	3190	0	●	●	●
Racine	88%	2161	2643	483	1847	2476	629	●	●	●	
Wausau	88%	2741	2741	0	2508	2508	0	●	●	●	

Source: The Center for a Competitive Waste Industry, *Projected Impacts on Competition from the Merger of Republic Services and Allied Waste* (Nov. 14, 2008) at 14-15.

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January 16, 2009

Via regular and certified mail

Ms. Maribeth Petrizzi, Chief, Litigation
II Section, Antitrust Division,
United States Department of Justice,
1401 H Street, NW, Suite 3000,
Washington, D.C. 20530

Re: Comments on Proposed Final
Judgment in United States * * *
Commonwealth of Pennsylvania, et
al. v. Republic Services, Inc., and
Allied Waste Industries, Inc., Case:
1:08-cv-02076 (D. D.C. December 3,
2008)

Dear Ms. Petrizzi: We represent the
Pennsylvania Independent Waste
Haulers Association ("PIWHA") and on
its behalf submit the following
comments regarding the Proposed Final
Judgment ("PFJ") in response to the
Competitive Impact Statement filed by
the United States Department of Justice

on December 3, 2008, in the above
referenced matter.

PIWHA is a trade association of over
one hundred members established
sixteen years ago for the purpose of
promoting the survival of smaller,
independent business owners in the
increasingly concentrated waste
industry. We respectfully request that
our comments be assessed in the context
of this purpose.

Summary of Comments

As to the Philadelphia area, the PFJ
should require the divestiture of the
Quickway transfer station ("Quickway")
and the T.R.C. transfer station ("TRC"),
or at least one of them, instead of the
Girard Point transfer station (Girard
Point") and the Philadelphia Recycling
and Transfer Station ("58th Street").
The PFJ should require that the divested
facilities be sold to small, independent

acquirers, if possible, and should permit
the sale of each facility to be made to
separate acquirers. The PFJ should
permit seller financing and the
Government should encourage such
financing for smaller acquirers,
provided that they are creditworthy.
The PFJ should require the defendants
to offer three (3) year disposal contracts
to all waste haulers, not just to larger
haulers as is the case now.

Comments

**A. Hauling services consumers would
be better served if the PFJ were to
require different transfer stations to be
divested in the Philadelphia area.**

The PFJ requires divestiture of the
following transfer stations: (1) Republic
owned Girard Point; and (2) Allied
owned 58th Street. The PFJ should,
instead, require divestiture of Quickway

and TRC, or at least one of the latter, for two reasons.

First, both Girard Point and 58th Street, PIWHA contends, are substantially less financially viable than Quickway and TRC. Financial viability, of course, should be a significant factor in assessing the likelihood of the long term successful operation of a divested facility. Certainly PIWHA does not have access to the defendants' financial data, but marginal profitability of the Girard Point and 58th Street facilities has been the distinct impression of various PIWHA members who are fully familiar with the eastern Pennsylvania waste hauling/disposal market.

The accuracy of this impression is corroborated by PIWHA's learning, as it reported to the Government while the investigation of the merger was in progress, that the defendants would be willing to divest Girard Point and 58th Street in order to receive Government approval of their then proposed merger. It is further corroborated by the fact, as PIWHA understands it, that these two facilities were/have been unsuccessfully offered for sale for a number of years. The inability of the defendants to sell the facilities no doubt was due to the limited size (and, accordingly, limited profitability) of the two facilities and the impossibility/impracticality of physical expansion.

Secondly, there is a significant issue with regard to the location of the facilities. The 58th Street and the Girard Point facilities are substantially further geographically from haulers servicing Bucks and Montgomery counties than Quickway and TRC and, accordingly, are more costly for those haulers to use. Please see Appendices A and B attached hereto. Further, the 58th Street and the Girard Point facilities are significantly more difficult in terms of ingress and egress, which results in additional increased cost for use of these facilities.

In this connection, it is PIWHA's position that the Government should take into account the anticompetitive effects the increased concentration of ownership of disposal facilities in Philadelphia County will have upon consumers of hauling services in areas close to Philadelphia but located in the contiguous northern counties of Bucks and Montgomery and revise its divestiture order accordingly. In PIWHA's opinion this would require the divestiture of Quickway and T.R.C., or at least one of them.

With the intense development of Bucks and Montgomery counties over the last several decades and the migration of population from Philadelphia to those counties, it would seem extremely likely that a massive

number of "suburban" hauling services consumers could be adversely affected by the increased concentration of disposal facilities located in the more northern part of Philadelphia County (Quickway and TRC). Quickway and TRC are the facilities which haulers in Bucks and Montgomery counties are far more likely to utilize. Assuming divestiture as required by the PFJ, the increased prices haulers are likely to pay for use of Quickway and TRC will, in all likelihood, be directly passed on to the hauling service consumers in Bucks and Montgomery counties.

The relative number of suburban hauling services consumers who could be adversely impacted is magnified by the fact that residential consumers in the suburbs largely use private haulers, unlike in Philadelphia, where the municipal government collects residential waste.

B. The PFJ should require that the divested disposal facilities be sold to small, independent acquirers, if possible, and not sold to large, national or regional waste industry firms

PIWHA contends that wherever reasonable from the perspective of serving the public interest, efforts should be undertaken by the Government to encourage deconcentration in the waste industry, which has for years experienced rapidly accelerating market concentration. In this regard, the PFJ should require that the defendants' disposal assets which are to be divested be sold, if possible, to smaller, independent, non-publicly traded firms, with demonstrated ability to operate the acquired facilities successfully over the long term.

C. The PFJ should be revised to allow sale of the two Philadelphia disposal facilities to be made to separate acquirers, without obtaining prior Governmental written consent, as the PFJ currently requires

Should the Government concur in PIWHA's position that preference should be given to small independent acquirers, achievement of that goal would clearly be facilitated by allowing, perhaps requiring, the two facilities in the Philadelphia area which are to be divested to be sold separately to two different acquirers.

The possibility of the sale of the two divested Philadelphia County disposal facilities to separate acquirers would, of course, necessitate revision of the PFJ provision at Section II. H. 1. j. (p. 8-9) which requires use of the defendants' landfill in York, Pennsylvania be made available "[a]t the option of the Acquirer [singular] * * * at rates to be

negotiated." In any event, PIWHA contends that the grant of this option is meaningless in view of the location of the landfill (a three hour, one way drive from Philadelphia) and access being dependent upon the parties agreeing upon price.

D. The PFJ should be revised to permit seller financing of the purchase of divested facilities in this case and the Government should encourage seller financing for small, independent creditworthy acquirers

PIWHA is aware of the inclination of the Government to disfavor seller financing of the purchase of divested assets, as stated in the Antitrust Division Policy Guide to Merger Remedies ("Guide") (October 2004) Section IV. G. (p. 35-36). The current severe contraction of the availability of credit the country is experiencing, however, warrants the Government's re-evaluating its stated position on the issue of seller financing, particularly if the sale of the divestment assets to small, independent acquirers is a desirable goal, as PIWHA strongly believes it is. The defendants are multi-billion dollar companies and no doubt can well afford to extend financing to buyers of their facilities. All of the "potential problems" identified in the Guide regarding seller financing would appear to be capable of being effectively addressed. We discuss each of these "potential problems" enumerated in the Guide immediately below.

The problem of the seller retaining "some partial control over the [divested] assets" could be resolved by the seller's security interest (mortgage instrument) being so crafted as to deny the seller authority to exercise control over the buyer and that the seller's sole right would be limited to receiving installment payments. In the event of default and foreclosure, the Consent Decree could preclude the seller from regaining ownership and require that the facility be sold to a third party.

The Guide's concern regarding impeding the seller's "incentive to compete" with the divested facility because of the seller's fear of jeopardizing the purchaser's ability to repay, would seem unfounded. It would seem unlikely that the seller in the present matter would forego profit opportunities to assure full repayment of a relatively small debt when it retains the ability to resell the facility in the event of default by the buyer. As to the potential concern of the buyer's possible disinclination to compete vigorously because it "may cause the seller to exercise various rights under the loan," this cause for concern evaporates if the

seller's sole remedy is foreclosure and sale if the buyer defaults in repaying the loan.

The Guide's expressed concern regarding the seller's having "some legal claim on the divestiture assets in the event the purchaser goes bankrupt" would also be effectively addressed by the Consent Decree's limiting the seller's remedy for the buyer's default to sale of the divested asset to a third party. It is difficult to imagine that a bankruptcy court would ignore this judicial mandate.

As to the concern that the "ongoing relationship" between the seller and buyer could be used as "a conduit for exchanging competitively sensitive information," again, the cause for this concern does not exist if the only relationship between the parties is the duty of the buyer to make installment payments to the seller in satisfaction of the loan.

As to concerns which the buyer's need for seller financing might raise regarding the buyer's financial viability, we again submit that in the present financial credit market environment this should not be considered a poor reflection upon a prospective buyer of divested facilities.

In summary as to the issue of seller financing, it is PIWHA's position that, in the language of the Guide, "none of the possible concerns discussed * * * exist" and that current conditions in the financial markets warrant allowing seller financing.

E. The PFJ should address the issue of the availability to small haulers of three year disposal contracts and require the defendants to offer such contracts to all waste haulers

During the course of the Government's investigation of the proposed merger of the defendants, PIWHA urged that the defendants be required to offer three year disposal contracts to all haulers, not just the larger ones as is currently the case. The PFJ is silent as to this issue. It is PIWHA's experience that large, vertically integrated waste industry firms are generally unwilling to offer smaller haulers disposal contracts for a term exceeding one year. This practice prevents smaller haulers from submitting bids on longer term hauling contracts required by local governments, school districts and other large organizations. During these bidding processes, the bidders must certify that it has a three year disposal contract at an authorized facility. To require the offering of longer term disposal contracts to smaller haulers as well as larger haulers would certainly stimulate

competition for the business of large customers who insist upon longer term hauling contracts.

PIWHA is aware of the Government's hesitancy to seek "conduct relief" in Clayton Act Section 7 cases for the reasons stated in its 2004 Merger Remedies Guide, but PIWHA believes, to use the terminology of the Guide at Section III. E. (p. 17) that the "limited conduct relief" it proposes here will "be useful in [the present case] to help perfect structural relief." The Government has, in fact, required limited conduct relief in a Section 7 case against these very same defendants, *United States v. Allied Waste Industries Inc.*, and *Republic Services Inc.* (D.D.C., June 21, 2000) in which the defendants had entered into an asset exchange agreement. The limited conduct relief provided for by the Consent Decree in that case was the revision of onerous hauling services customer contracts in markets where structural relief was ordered.

Certainly, should the offering of three year contracts be required, the defendants should be permitted to offer different prices for different volumes of waste disposal. If the volume/price offerings of the defendants were required to be made publicly available, volume/price offerings not made in good faith would be easily identified by those haulers who were prejudiced and reported to the Government for appropriate action to assure compliance with the Consent Decree.

Respectfully submitted,
PENNSYLVANIA INDEPENDENT
WASTE HAULERS ASSOCIATION
/s/ _____

Leonard E. Dimare

/s/ _____

Anthony J. Mazullo, Jr.

February 3, 2009

Maribeth Petrizzi, Chief, Litigation II
Section, Antitrust Division, U.S.
Department of Justice, 1401 H
Street, Suite 3000, Washington, D.C.
20530

RE: *United States of America, et al v.*
Republic Services, Inc. and Allied
Waste Industries, Inc.

Dear Ms. Petrizzi: On behalf of the Cuyahoga County Solid Waste Management District of Cuyahoga County, Ohio and the Board of County Commissioners of Cuyahoga County, Ohio, I am submitting comments regarding the draft Proposed Final Judgment attached to the Hold Separate Stipulation and Order dated December 3, 2008 in the above referenced case.

The Cuyahoga County Solid Waste Management District was established by

the Board of County Commissioners of Cuyahoga County, Ohio on August 29, 1988 pursuant to the requirements imposed by the State of Ohio in Chapter 3734 of the Ohio Revised Code. The Cuyahoga County Solid Waste Management District contains the City of Cleveland and 58 suburban municipalities, villages and townships, with a population totaling 1,393,978. The statutory purpose of the District is the preparation, adoption, submission and implementation of a solid waste management plan of the District and the subsequent safe and sanitary management of all solid waste generated with the District. The Plan must provide adequate solid waste disposal capacity for at least 15 years and present a system to reduce, reuse and recycle at least 25% of the waste generated in the District.

The Board of Commissioners of the Cuyahoga County Solid Waste Management District concurs and supports the civil antitrust complaint filed by the United States and States and Commonwealths party to the complaint. The Board of Commissioners also concurs and supports the remedy stated in the Hold Separate Stipulation and Order filed with the Court on December 3, 2008. The Board of Commissioners, however, does not concur or support the Cleveland, Ohio market remedy Exhibit A, Section I, Relevant Hauling Assets beginning on page 10.

The remedy proposed within Appendix A fails to provide for divestiture of any small container commercial waste collection routes in the Cleveland, Ohio market area. Waste collected on such routes produce the volume of waste needed to make the sale of the Harvard Road Transfer Station and the Oakland Marsh Landfill a financially viable transaction necessary to attract a qualified buyer. The sale of the landfill and transfer assets without the sale of collection routes is akin to taking delivery of a new automobile of which the gasoline tank is bone dry. It is unreasonable to expect a potential buyer from outside the market area to incur the expense of maintaining the transfer and disposal assets while developing revenue volumes from scratch. To achieve a truly competitive remedy in the Cleveland, Ohio market requires the sale of commercial routes along with the transfer station and landfill assets. Thus the Board of Commissioners urges that sufficient small container commercial collection routes in the Cleveland, Ohio market area be added to the Relevant Hauling Assets listed in Section I.

Additionally, the defendants should be prohibited from acquiring additional

transfer station assets within Cuyahoga County for a multi-year period. We understand that the Broadview Heights Recycling Center (aka Transfer Station) owned by Norton Environmental and which is located along Interstate 77 approximately five miles due south of the Harvard Road Transfer Station is for sale. If the defendants were allowed to purchase the Broadview Heights

Transfer Station following the sale of the Harvard Road Transfer Station, without the sale of any commercial routes, the defendants would simply re-route its commercial waste to the Broadview Heights facility negating any attempt by the Court to insure competition within the Cleveland, Ohio market.

The Board of Commissioners of the Cuyahoga County Solid Waste Management District appreciates your consideration of the above comments in the protection of the public interest.

Sincerely,

/s/ _____
Patrick J. Holland,

Executive Director

February 3, 2009

Maribeth Petrizzi, Chief
Litigation II Section, Antitrust Division
U.S. Department of Justice
1401 H Street, Suite 3000
Washington, D.C. 20530

RE: United State of America, et al V. Republic Services, Inc. and Allied Waste Industries, Inc.

Dear Ms. Petrizzi;

On behalf of the Cuyahoga County Solid Waste Management District of Cuyahoga County, Ohio and the Board of County Commissioners of Cuyahoga County, Ohio, I am submitting comments regarding the draft Proposed Final Judgment attached to the Hold Separate Stipulation and Order dated December 3, 2008 in the above referenced case.

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The Board of Commissioners of the Cuyahoga County Solid Waste Management District concurs and supports the civil antitrust complaint filed by the United States and States and Commonwealths party to the complaint. The Board of Commissioners also concurs and supports the remedy stated in the Hold Separate Stipulation and Order filed with the Court on December 3, 2008. The Board of Commissioners, however, does not concur or support the Cleveland, Ohio market remedy Exhibit A, Section I, Relevant Hauling Assets beginning on page 10.

The remedy proposed within Appendix A fails to provide for divestiture of any small container commercial waste collection routes in the Cleveland, Ohio market area. Waste collected on such routes produce the volume of waste needed to make the sale of the Harvard Road Transfer Station and the Oakland Marsh Landfill a financially viable transaction necessary to attract a qualified buyer. The sale of the landfill and transfer assets without the sale of collection routes is akin to taking delivery of a new automobile of which the gasoline tank is bone dry. It is unreasonable to expect a potential buyer from outside the market area to incur the expense of maintaining the transfer and disposal assets while developing revenue volumes from scratch. To achieve a truly competitive remedy in the Cleveland, Ohio market requires the sale of commercial routes along with the transfer station and landfill assets. Thus the Board of Commissioners urges that sufficient small container commercial collection routes in the Cleveland, Ohio market area be added to the Relevant Hauling Assets listed in Section I.

Additionally, the defendants should be prohibited from acquiring additional transfer station assets within Cuyahoga County for a multi-year period. We understand that the Broadview Heights Recycling Center (aka Transfer Station) owned by Norton Environmental and which is located along Interstate 77 approximately five miles due south of the Harvard Road Transfer Station is for sale. If the defendants were allowed to purchase the Broadview Heights Transfer Station following the sale of the Harvard Road Transfer Station, without the sale of any commercial routes, the defendants would simply re-route its commercial waste to the Broadview Heights facility negating any attempt by the Court to insure competition within the Cleveland, Ohio market.

The Board of Commissioners of the Cuyahoga County Solid Waste Management District appreciates your consideration of the above comment in the protection of the public interest.

Sincerely,



Patrick J. Holland,
Executive Director

cc: Board of County Commissioners of Cuyahoga County
Cuyahoga County Solid Waste Policy Committee
Mitchell L. Gentile, Esq. Senior Attorney, Antitrust, Office of the Ohio Attorney General

January 23, 2009

Ms. Maribeth Petrizzi, Chief
Litigation II Section, Antitrust Division
U.S. Department of Justice
1401 N.W. Suite 3000
Washington, DC 20530

RE: OBJECTION TO THE SALE OF LANDFILL OWNED BY REPUBLIC SERVICES, INC. and ALLIED WASTE INDUSTRIES (SOLANO GARBAGE COMPANY)

Dear Chief Petrizzi:

My client, June Guidotti, would like her input to be considered regarding the possible sale of the landfill owned by Republic Services, Inc. and Allied Waste Industries (Solano Garbage Company) that abuts her property.

In the interest, safety, and well being of the people who are living nearby, this landfill should be put back to its original status as a marsh environment. She believes Republic Services should be required to forever clean up and be accountable for the damage they have caused to untold plants and marine life. Further, they should stop the burning in the canyon of the methane gas into the air and leaking into the ground water and adjacent parcels of land. It must be demanded that Republic Services (Allied Services) bear the costs to make the land useable once again, and to restore it to its prior pristine condition. All damages to the marsh and waterways must be repaired.

It is my client's sincere hope that with all of the wrongs that Republic Services, Inc. and Allied Waste Industries have done so far this does not turn into another Erin Brocovich movie

Conclusion: My client is offering \$10 in gold for the rights to useable methane produced from the landfill, provided that the cities and counties build the pipeline to Travis Air Force Base or permit the building of a pyrolysis plant (including all funding of such) on my client's property and take the ash from the waste-to-energy site.

Sincerely,



WILLIAM S. REUSTLE
Attorney at Law

[FR Doc. E9-13549 Filed 6-15-09; 8:45 am]

BILLING CODE C

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Large Jail Administration: Training Curriculum Development

AGENCY: National Institute of Corrections, Department of Justice.

ACTION: Solicitation for a Cooperative Agreement.

SUMMARY: The National Institute of Corrections (NIC), Jails Division, is

seeking applications for the development of curricula on the administration of large jails (jails with 1,000 or more beds). The project will be for an eighteen-month period and will be carried out in conjunction with the NIC Jails Division. The awardee will work closely with NIC staff on all aspects of the project. To be considered, applicants must demonstrate, at a minimum, (1) in-depth knowledge of the purpose, functions, and operational complexities of local jails, (2) expertise on the key elements in jail administration (see "Supplementary Information"), (3) expertise on the implications of jail size for implementing these elements, (4)

experience in developing curriculum, based on adult learning principles, and (5) extensive experience in working with local jails on issues related to administration and operations.

DATES: Applications must be received by 4 p.m. (EDT) on July 6, 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 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; however, electronic applications can be submitted via <http://www.grants.gov>.

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>.

Questions about this project and the application procedures should be directed to Mike Jackson, Correctional Program Specialist, National Institute of Corrections. Questions must be e-mailed to Mr. Jackson at mpjackson@bop.gov. Mr. Jackson will respond by e-mail to the individual. Also, all questions and responses will be posted on NIC's Web site at <http://www.nicic.gov> for public review. (The names of those submitting the questions will not be posted). The Web site will be updated daily and postings will remain on the website until the closing date of this cooperative agreement solicitation.

SUPPLEMENTARY INFORMATION:

Background: The NIC Jails Division has identified the following key elements in the administration of all jails, regardless of size: (1) Use of jail standards in jail management, (2) risk management; (3) policy and procedure development and implementation; (4) analysis of staffing levels required to carry out operations; (5) workforce management, including recruiting, hiring, retaining, training, and supervising staff; (6) development and implementation of strategies to manage inmate behavior; (7) budget management, and (8) operational assessment.

NIC recognizes that, although these elements are common to the administration of all jails, the administrator's role in implementing them is directly affected by the size of the jail. Therefore, the NIC Jails Division currently offers the "Administering the Small Jail" and "Jail Administration" (for medium-sized jails) training programs. The NIC Jails Division now intends to develop a training program for large jail administrators on these elements.

Scope of Work

The cooperative agreement awardee will draft a curriculum on the key elements of jail administration for large jail administrators; pilot the curriculum; and revise the curriculum based on an assessment of the pilot. The final curriculum will include: Program

description (overview); detailed narrative lesson plans; presentation slides for each lesson plan; and a participant manual that follows the lesson plans. The curriculum will be designed according to the Instructional Theory Into Practice model for adult learners. Lesson plans will be in a format that NIC provides.

The schedule of activities for this project should include, at a minimum, the following.

Meetings

The cooperative agreement awardee will attend an initial meeting with the NIC project manager for a project overview and preliminary planning. This will take place shortly after the cooperative agreement is awarded.

The awardee will also meet up to two times with NIC staff and up to five administrators of large jails. The purpose of these meetings is to clearly identify the role of the large jail administrator in implementing the key elements of jail administration. Note that the jail administrators will be selected by NIC, but all costs associated with their meeting attendance will be paid by the awardee.

The awardee will meet up to three times with NIC staff during the development of the draft curriculum. One meeting will be devoted to drafting a framework for the curriculum, including module topics, performance objectives, estimated timeframes, sequencing, and potential instructional strategies. The other meetings will focus on lesson plan development, review, and revision and other project issues, as they arise. These meetings will last up to three days each.

The awardee will meet up to two times with NIC staff during the refinement of the draft curriculum into a final product. These meetings will focus on curriculum revisions and other project issues, as they arise.

Development of Draft Curriculum

The cooperative agreement awardee will draft the full curriculum, in consultation with NIC staff. Once the curriculum is drafted, the awardee will send it to NIC staff and selected large jail administrators for review.

The jail administrators will be chosen by NIC, but the awardee will reimburse them for time and expenses related to the review. The draft curriculum must be submitted sufficiently in advance of the pilot to ensure there is time to make any required changes.

Curriculum Pilot

The draft curriculum will be piloted to determine needed refinements.

Although the length of the program will be determined by the content, the awardee should project that the program will last up to six full days.

The awardee, in conjunction with NIC, will identify up to four trainers for the program. The awardee will contract with and pay all costs associated with the trainers, including travel, lodging, meals, fees, and miscellaneous expenses. NIC will secure training space at its academy in Aurora, Colorado, select program participants; notify participants of selection and program details, supply training equipment and materials, and provide for participant lodging, meals, and transportation.

NIC staff will attend the entire program, and the awardee will work closely with NIC staff during program delivery. At the end of each program day, the awardee will meet with NIC staff to review the modules delivered.

Curriculum Revision and Final Product

Based on the pilot and discussions with NIC staff, the awardee will revise the curriculum, and submit the revised curriculum to NIC staff for final review. The awardee will also make any remaining changes, and submit the completed curriculum to NIC in hard copy (1) and on disk in Word format.

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 under which the applicant operates (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 referenced in this announcement. Submissions that are hand delivered or sent via Fed-Ex, please include an original and three copies of the 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 be accepted only via <http://www.grants.gov>.

The narrative portion of the application should include, at a minimum: a brief paragraph indicating the applicant's understanding of the project's purpose; a brief paragraph that summarizes the project goals and objectives; a clear description of the methodology that will be used to complete the project and achieve its goals; a statement or chart of measurable project milestones and timelines for the completion of each milestone; a description of the qualifications of the applicant organization and a resume for the principle and each staff member assigned to the project (including instructors) that documents relevant knowledge, skills, and abilities to carry out the project; and a budget that details all costs for the project, shows consideration for all contingencies for the project, and notes a commitment to work within the proposed budget.

The narrative portion of the application should not exceed ten double-spaced typewritten pages, excluding attachments related to the credentials and relevant experience of staff.

In addition to the narrative and attachments, the applicant must submit one full sample curricula developed by the primary curriculum developers named in the application. The sample curriculum must include lesson plans, presentation slides, and a participant manual.

Authority: Public Law 93-415

Funds Available: NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. Funds may be used only 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 ability to implement a project of this size and scope.

Review Considerations: Applications will be subject to the NIC Review Process. The criteria for the evaluation of each application will be as follows:

Project Design and Management—30 points

Is there a clear understanding of the purpose of the project and the nature and scope of project activities? Does the applicant give a clear and complete description of all work to be performed

for this project? Does the applicant clearly describe a work plan, including objectives, tasks, and milestones necessary to project completion? Are the objectives, tasks, and milestones realistic and will they achieve the project as described in NIC's solicitation for this cooperative agreement? Are the roles and the time required of project staff clearly defined? Is the applicant willing to meet with NIC staff, at a minimum, as specified in the solicitation for this cooperative agreement?

Applicant Organization & Project Staff Background—50 points

Is there a description of the background and expertise of all project personnel as they relate to this project? Is the applicant capable of managing this project? Does the applicant have an established reputation or skill that makes the applicant particularly well qualified for the project? Do primary project personnel, individually or collectively, have in-depth knowledge of the purpose, functions, and operational complexities of local jails? Do the primary project personnel, individually or collectively, have expertise on the key elements in jail administration? Do the primary project personnel, individually or collectively, have expertise on the implications of jail size for implementing these elements? Do the primary project personnel, individually or collectively, have experience in developing curriculum based on the Instructional Theory Into Practice model? Do primary project personnel, individually or collectively, have extensive experience in working with local jails on issues related to administration and operations? Does the staffing plan propose sufficient and realistic time commitments from key personnel? Are there written commitments from proposed staff that they will be available to work on the project as described in the application?

Budget—20 points

Does the application provide adequate cost detail to support the proposed budget? Are potential budget contingencies included? Does the application include a chart that aligns the budget with project activities along a timeline with, at a minimum, quarterly benchmarks? In terms of program value, is the estimated cost reasonable in relation to work performed and project products?

Sample Curricula—35 points

Does the sample curriculum include all components specified in the RFP

(lesson plans, presentation slides, and participant manual)? Are the lesson plans designed according to the Instructional Theory Into Practice model? Does each lesson plan have performance objectives that describe what the participants will accomplish during the module? Are the lesson plans detailed, clear, and well written (spelling, grammar, punctuation)? Is the participant manual clear, and does it follow the lesson plans? Do the presentation slides effectively illustrate information in the lesson plans? Do the presentation slides have a professional appearance and can they be easily read from a distance (30-40 feet)?

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

Applicants can obtain a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 800-333-0505. Applicants who are sole proprietors should dial 866-705-5711 and select option #1.

Applicants may register in the CCR online at the CCR Web site at <http://www.ccr.gov>. Applicants can also review a CCR handbook and worksheet at this Web site.

Number of Awards: One.

NIC Opportunity Number: 09J71. This number should appear as a reference line in the cover letter, where the opportunity number is requested on Standard Form 424, and on the outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.601; *Executive Order 12372:* This project is not subject to the provisions of the executive order.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. E9-14050 Filed 6-15-09; 8:45 am]

BILLING CODE 4410-36-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-64,979]

Fiberweb, PLC, Simpsonville, SC; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated April 18, 2009, the petitioners 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 March 4, 2009. The Notice of Determination was published in the **Federal Register** on March 19, 2009 (74 FR 11760).

The initial investigation resulted in a negative determination based on the finding that imports of filtration media did not contribute importantly to worker separations at the subject firm. The investigation also revealed that the subject firm did not shift production of filtration media to a foreign country during the relevant period.

In the request for reconsideration, the petitioner alleged that the workers of the subject firm also produced non-filtration products. The petitioner also alleged that the subject firm shifted production of non-filtration products abroad and also increased imports of non-filtration products during the relevant period.

The Department 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 12th day of May 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14069 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-65,433]

American Racing Equipment, LLC, Denver, CO; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated April 25, 2009, the petitioner 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 April 6, 2009. The Notice of Determination will be soon published in the **Federal Register**.

The initial investigation resulted in a negative determination based on the finding that imports of two-piece automotive wheels did not contribute importantly to worker separations at the subject firm. The investigation revealed that the subject firm did not shift production of two-piece automotive wheels to a foreign country during the relevant period.

In the request for reconsideration, the petitioner alleged that the workers of the subject also supported production of one piece and cast wheels. The petitioner also alleged that the subject firm shifted production to China and that there was an increase in imports of one piece and cast wheels from China.

The Department 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 11th day of May 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14072 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired

format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed request for a new OMB Control number for the collection the "BLS Data Sharing Program." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before August 17, 2009.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212. Written comments may be transmitted by fax to 202-691-5111. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, 202-691-7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

An important aspect of the mission of the BLS is to disseminate to the public the maximum amount of information possible. Not all data are publicly available because of the importance of maintaining the confidentiality of BLS data. However, the BLS has opportunities available on a limited basis for eligible researchers to access confidential data for purposes of conducting valid statistical analyses that further the mission of the BLS as permitted in the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA).

The BLS makes confidential data available to eligible researchers through three major programs:

1. The Census of Fatal Occupational Injuries (CFOI), as part of the BLS occupational safety and health statistics program, compiles a count of all fatal work injuries occurring in the U.S. in each calendar year. Multiple sources are used in order to provide as complete and accurate information concerning workplace fatalities as possible. A research file containing CFOI data is made available offsite to eligible researchers.

2. The National Longitudinal Surveys of Youth (NLSY) is designed to document the transition from school to work and into adulthood. The NLSY

collects extensive information about youths' labor market behavior and educational experiences over time. The NLSY includes three different cohorts: The National Longitudinal Survey of Youth 1979 (NLSY79), the NLSY79 Young Adult Survey, and the National Longitudinal Survey of Youth 1997 (NLSY97). NLSY data beyond the public use data are made available in greater detail through an offsite program to eligible researchers.

3. Additionally, the BLS makes available data from several employment, compensation, prices, and working conditions surveys to eligible researchers for onsite use. Eligible researchers can access these data in researcher rooms at the BLS national office in Washington, DC.

II. Current Action

Office of Management and Budget clearance is being sought for the BLS

Data Sharing Program. In order to provide access to confidential data, the BLS must determine that the researcher's project will be exclusively statistical in nature and that the researcher is eligible based on guidelines set out in CIPSEA, the Office of Management and Budget (OMB) implementation guidance on CIPSEA, and BLS policy. This information collection provides the vehicle through which the BLS will obtain the necessary details to ensure all researchers and projects comply with appropriate laws and policies.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: New Collection.

Agency: Bureau of Labor Statistics.

Title: BLS Data Sharing Program.

OMB Number: 1220-NEW.

Affected Public: Individuals.

Form	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden hours
CFOI Application	7	On occasion	7	35 minutes ..	4
NLS Application	105	On occasion	105	30 minutes ..	53
Onsite Researcher Application	25	On occasion	25	20 hours	500
Totals	137	137	557

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 10th day of June 2009.

Kimberley D. Hill,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. E9-14077 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-24-P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for "Collecting Aggregate Participant Counts for Workforce Investment Act (WIA) Title IB, Wagner-Peyser Act, National Emergency Grants, and Reemployment Services Grants," OMB Control No. 1205-0474, Extension Without Change

AGENCY: Employment and Training Administration.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly

understood, and the impact of collection requirements on respondents can be properly assessed. In response to the American Recovery and Reinvestment Act (ARRA), the Employment and Training Administration is soliciting comments concerning States' submission of monthly supplemental reports that are based on program participant data that States already collect. This notice utilizes standard clearance procedures in accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320.12. This information collection follows an emergency review that was conducted in accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320.13. The submission for OMB emergency review was published in the **Federal Register** on April 30, 2009, see 74 FR 19985. OMB approved the emergency clearance under OMB control number 1205-0474 on May 20, 2009. A copy of this ICR can be obtained from the RegInfo.gov Web site at <http://www.reginfo.gov/public/do/PRAMain>.

- For WIA Adult, aggregate counts of all participants, including those whose services are funded with regular WIA Adult formula funds and/or Recovery Act funds, including low-income

participants, those are also receiving Temporary Assistance to Needy Families and/or other public assistance, as well as the number of UI claimants, Veterans, and individuals with disabilities, numbers in training and type of training, and numbers receiving supportive services.

- For WIA Dislocated Workers, aggregate counts of all participants, including those whose services are funded with regular WIA Dislocated Worker formula funds and/or Recovery Act funds. States will report the number of WIA Dislocated Workers who are UI claimants, Veterans, and individuals with disabilities, numbers in training and type of training, and numbers receiving supportive services.

- For National Emergency Grants, financed with Recovery Act funds only, aggregate counts of participants, including the number of UI claimants, Veterans, and individuals with disabilities, numbers in training and type of training, and numbers receiving supportive services are to be reported.

- For WIA Youth, served with Recovery Act funds only, aggregate counts of all Recovery Act youth participants, including the characteristics of participants, the numbers of participants in summer employment, services received, attainment of a work readiness skill, and completion of summer youth employment are to be reported. Submission of the regular WIA quarterly and annual reports, including any youth who continue services under the WIA year-round youth program, continues.

- For the Wagner-Peyser Act Employment Service, the number of participants served and the type of services received, as well as supplemental reports of aggregate counts of all participants whose services are financed with regular Wagner-Peyser Act formula funds and/or Recovery Act funds (*i.e.*, Employment Service and Reemployment Services) are to be reported.

- For the Wagner-Peyser Reemployment Services Grants, in addition to those data elements already collected for the Wagner-Peyser Act Employment Service report, one additional data element should be reported: Referral to training, including WIA-funded training.

In addition to these aggregate monthly reports, States are requested to submit the individual WIA standardized record data (WIASRD) on all participants and exiters in the WIA title 1B programs, and in National Emergency Grants, on a quarterly basis, beginning with the 3rd quarter of Program Year 2009, which ends on March 31, 2010. The first

deadline for the required quarterly submission will be May 15, 2010. This start date gives States sufficient time to adjust their management information systems. The emergency clearance expires November 30, 2009.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or by accessing: <http://www.doleta.gov/OMBControlNumber.cfm>

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before August 17, 2009.

ADDRESSES: Submit written comments to Karen Staha, U.S. Department of Labor, Employment and Training Administration, Office of Performance and Technology, 200 Constitution Avenue, NW., Room S-5206, Washington, DC 20210. Telephone number: 202-693-2917 (this is not a toll-free number). Fax: 202-693-3490. E-mail: Staha.Karen@dol.gov.

SUPPLEMENTARY INFORMATION:

I. *Background:* The supplemental reports and quarterly collection of WIA individual records replaced the limitations imposed by prior outcome-based performance reporting requirements. This collection comprises a participant and performance reporting strategy that provides a more robust, "real time" view of the impact of the Recovery Act funds, providing greater information on levels of program participation as well as about the characteristics of the participants served and the types of services provided. Furthermore, this information collection allows ETA to report performance accountability information immediately on the effective use of Recovery Act funds already received by State workforce agencies. With these monthly reports, information on individuals will be available while they are participating in the programs. Finally, significant value accrues from quarterly individual records from State workforce agencies. They provide more timely information to respond to the oversight needs of Governors, Congress and other Federal/State stakeholders and the general public; ETA benefits from more timely analysis; and States have access to more regular updates on nationwide participation information and employment and training trends.

II. *Review Focus:* The Department of Labor is particularly interested in comments which:

- * Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

- * Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- * Enhance the quality, utility, and clarity of the information to be collected; and

- * Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. *Current Actions:*

Type of Review: Extension without changes.

Title: "Collecting Aggregate Participant Counts for Workforce Investment Act (WIA) Title IB, Wagner-Peyser Act, National Emergency Grants, and Reemployment Services Grants."

OMB Number: 1205-0474.

Affected Public: State Workforce Agencies.

Total Respondents: 54.

Frequency of Collection: Monthly.

Total Responses: 864.

Average Time per Respondent: 64 hours for monthly reports and 2,653 hours for quarterly WIASRD report.

Estimated Total Burden Hours: 614,632.

Total Annual Costs Burden: \$0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 9, 2009.

John R. Beverly III,

Administrator, Office of Performance and Technology, Employment and Training Administration.

[FR Doc. E9-14082 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-65,437; TA-W-65,437A; TA-W-65,437B]

Navistar, Inc. Engine Group, Indianapolis Engine Plant; Indianapolis Casting Corporation, a Wholly Owned Subsidiary of Navistar, Inc.; Navistar, Inc. Engine Group, Advanced Manufacturing Engineering; Including On-Site Leased Workers From Community Hospital, Nishida, Securitas and Populus Group, Indianapolis, IN; 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 USC 2273), and Section 246 of the Trade Act of 1974 (26 USC 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on March 19, 2009, applicable to workers of Navistar, Inc., Engine Group, Indianapolis Engine Plant, including on-site leased workers of Community Hospital, Nishida and Securitas, Indianapolis Casting Corp., a wholly owned subsidiary of Navistar, Inc., including on-site leased workers from Community Hospital, Nishida and Securitas and Navistar, Inc., Engine Group, Advanced Manufacturing Engineering, including on-site leased workers from Community Hospital, Nishida and Securitas, Indianapolis, Indiana. The notice was published in the **Federal Register** on April 7, 2009 (74 FR 15757).

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 diesel engine production.

New information shows that workers leased from Populus Group were employed on-site at the above mentioned Indianapolis, Indiana locations of Navistar, Inc., Engine Group, Indianapolis Engine Plant, Indianapolis Casting Corporation, a wholly owned subsidiary of Navistar, Inc. and Navistar, Inc., Engine Group, Advance Manufacturing Engineering. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm secondarily affected as

a supplier of diesel engines to a trade certified firm.

Based on these findings, the Department is amending this certification to include workers leased from Populus Group working on-site at the Indianapolis, Indiana locations.

The amended notice applicable to TA-W-65,437 & A & B is hereby issued as follows:

All workers of Navistar, Inc., Engine Group, Indianapolis Engine Plant, including on-site leased workers from Community Hospital, Nishida, Securitas and Populus Group, Indianapolis, Indiana (TA-W-65,437), Indianapolis Casting Corporation, a wholly owned subsidiary of Navistar, Inc., including on-site leased workers of Community Hospital, Nishida, Securitas and Populus Group, Indianapolis, Indiana (TA-W-65,437A), and Navistar, Inc., Engine Group, Advanced Manufacturing Engineering, including on-site leased workers of Community Hospital, Nishida, Securitas and Populus Group, Indianapolis, Indiana (TA-W-65,437B), who became totally or partially separated from employment on or after February 26, 2008, through March 19, 2011, 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 13th day of May 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14060 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-63,490]

Tenneco, Inc., Clevite-Pullman Division, Including On-Site Leased Workers From Elite Staffing and Time Services, Milan, OH; 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 June 24, 2008, applicable to workers of Tenneco, Inc., Clevite-Pullman Division, Milan, Ohio. The Department's Notice of determination was published in the

Federal Register on July 15, 2008 (73 FR 40618).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. Subject firm workers produce elastomer bushings.

New information shows that workers leased from Elite Staffing and Time Services were working on-site at the Milan, Ohio location of the subject firm. 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 leased workers of Elite Staffing and Time Services working on-site at the Milan, Ohio location of the subject firm.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift of production to a foreign country that is party to a free trade agreement with the United States.

The amended notice applicable to TA-W-63,490 is hereby issued as follows:

All workers of Tenneco, Inc., Clevite-Pullman Division, including on-site leased workers from Elite Staffing and Time Services, Milan, Ohio, who became totally or partially separated from employment on or after June 24, 2007, through June 24, 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 13th day of May 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14061 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Employment and Training Administration**

[TA-W-61,706]

Wheeling-Pittsburgh Steel, Currently Known as Severstal Wheeling, Inc., Mingo Junction, Ohio; 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 July 12, 2007, applicable to workers of Wheeling-Pittsburgh Steel, Mingo Junction, Ohio. The notice was published in the **Federal Register** on July 26, 2007 (72 FR 41087).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of steel slabs and coils. These include low carbon steel slabs and hot rolled sheet coil.

New information shows that following a change in ownership in August 2008, Wheeling Pittsburgh Steel is currently known as SeverStal Wheeling, Inc. Accordingly, the Department is amending the certification to reflect ownership by the successor firm, SeverStal Wheeling, Inc.

The amended notice applicable to TA-W-61,706 is hereby issued as follows:

All workers of Wheeling Pittsburgh Steel, currently known as SeverStal Wheeling, Inc., Mingo Junction, Ohio, who became totally or partially separated from employment on or after May 31, 2006, through July 12, 2009, 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 12th day of May 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14064 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-62,515]

Drive Sol Global Steering, Inc. Steering Division, Formerly Known as Timken US Corporation, Currently Known as Global Steering Systems, LLC Including On-Site Leased Workers From Kelly Services, Inc., Watertown, CT; 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 February 5, 2008, applicable to workers of Drive Sol Global Steering, Inc., Steering Division, Watertown, Connecticut. The notice was published in the **Federal Register** on February 22, 2008 (73 FR 9835). The certification was amended on March 10, 2008 and August 20, 2008 to reflect the former employers name and to include on-site leased workers from Kelly Services. The notices were published in the **Federal Register** on March 17, 2008 (73 FR 14271) and August 29, 2008 (73 FR 51000-51001), respectively.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of steering mechanical shafts.

New information shows that on March 31, 2009, Wanxiang Corp. purchased Drive Sol Global Steering Systems, LLC. and is currently known as Global Steering Systems, LLC.

Accordingly, the Department is amending this certification to include workers of the subject firm whose UI wages are reported under the successor firm, Global Steering Systems, LLC.

The amended notice applicable to TA-W-62,515 is hereby issued as follows:

All workers of Drive Sol Global Steering, Inc., Steering Division formerly known as Timken US Corporation, currently known as Global Steering Systems, LLC, including on-site leased workers from Kelly Services, Watertown, Connecticut, who became totally or partially separated from employment on or after November 29, 2006, through February 5, 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 13th day of May 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14065 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-62,760]

Delphi Corporation, Electronics and Safety Division, Including On-Site Leased Workers From Acro Service Corporation, Manpower, Manpower Professional, and Continental, Inc., Kokomo, IN; 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 February 14, 2008, applicable to workers of Delphi Corporation, Electronics and Safety Division, Kokomo, Indiana. The notice was published in the **Federal Register** on February 29, 2008 (73 FR 11152). The certification was amended on October 16, 2008 and April 14, 2009 to include on-site leased workers from Acro Service Corporation, Manpower and Manpower Professional. The notices were published in the **Federal Register** on October 27, 2008 (73 FR 63733) and April 30, 2009 (74 FR 19989), respectfully.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of various types of automobile components, including: heating, ventilating, air-conditioning systems (HVAC), amplifiers, mainboards, gas control modules, hybrid airmeter electronics, hybrid ignition electronics, pressure sensors, transmission control modules, crash sensing devices, occupant sensing devices, warning systems and semiconductors.

New information shows that leased workers of Continental, Inc. were employed on-site at the Kokomo, Indiana location of Delphi Corporation, Electronics and Safety Division. The Department has determined that these workers were sufficiently under the control of Delphi Corporation, Electronics and Safety Division.

Based on these findings, the Department is amending this certification to include leased workers of Continental, Inc. working on-site at the Kokomo, Indiana location of the subject firm.

The intent of the Department's certification is to include all workers employed at Delphi Corporation, Electronics and Safety Division who were adversely affected by a shift in production Mexico.

The amended notice applicable to TA-W-62,760 is hereby issued as follows:

All workers of Delphi Corporation, Electronics and Safety Division, including on-site leased workers from Acro Service Corporation, Manpower, Manpower Professional and Continental, Inc., Kokomo, Indiana, who became totally or partially separated from employment on or after January 28, 2007, through February 14, 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 12th day of May 2009.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14066 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-64,221]

Hella Electronics Corporation, Including Workers of Hella Corporate Center, USA, Formerly Known as Hella North America, Including On-Site Leased Workers from Westaff, Flora, IL; 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 January 9, 2009, applicable to workers of Hella Electronics Corporation, Flora, Illinois, including on-site leased workers from Westaff. The notice was published in the **Federal Register** on February 2, 2009 (74 FR 5870).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce sensors and relays such as accelerator pedal sensors, washer pumps and various other electronics for automobiles.

The intent of the Department's certification is to include all workers of the subject firm adversely affected by the shift in production of accelerator pedal sensors, washer pumps and various other electronics for automobiles to Mexico.

New information shows that the worker group included workers of Hella Corporate Center, USA, formerly known as Hella North America. The Department has determined that these workers were not separately identifiable from the workers of Hella Electronics Corporation.

Based on these findings, the Department is amending this certification to include workers of Hella Corporate Center, USA, formerly known as Hella North America working at the Flora, Illinois location of the subject firm.

The amended notice applicable to TA-W-64,221 is hereby issued as follows:

"All workers of Hella Electronics Corporation, including workers of Hella Corporate Center, USA, formerly known as Hella North America, including on-site leased workers from Westaff, Flora, Illinois, who became totally or partially separated from employment on or after October 13, 2007, through January 9, 2011, 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 6th day of May 2009.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14067 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-64,421]

Pacific Automotive, Components and Systems International, Including On-Site Leased Workers from Quality Temporary Service, Imlay City, Michigan; 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, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade

Adjustment Assistance on February 18, 2009 applicable to workers of Pacific Automotive, Components and Systems International, Imlay City, Michigan. The notice was published in the **Federal Register** on March 10, 2009 (74 FR 10303).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of seat bolsters, armrests and door bolsters for the auto industry.

The intent of the Department's certification is to include all secondarily affected workers employed at Pacific Automotive Components and Systems International, Imlay City, Michigan.

New information shows that workers leased from Quality Temporary Service were employed on-site at the Imlay City, Michigan location of Pacific Automotive Components and Systems International. 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 leased workers from Quality Temporary Service working on-site at the Imlay City, Michigan location of the subject firm.

The amended notice applicable to TA-W-64,421 is hereby issued as follows:

"All workers of Pacific Automotive Components and Systems International, Imlay City, Michigan, including on-site leased workers from Quality Temporary Service, Imlay City, Michigan, who became totally or partially separated from employment on or after November 12, 2007, through February 18, 2011, are eligible to apply for trade 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 6th day of May 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14068 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-65,045A]

**Parkdale Mills, Inc., Plant #40,
Graniteville, South Carolina; 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 April 6, 2009, applicable to workers of Parkdale Mills, Inc., Plant #40, Graniteville, South Carolina (TA-W-65,045A). The notice will soon be published in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce yarn.

The review shows that all workers of Parkdale Mills, Inc., Plant #40, Graniteville, South Carolina, were previously certified eligible to apply for adjustment assistance under petition number TA-W-60,796, which expired on March 21, 2009.

Therefore, in order to avoid an overlap in worker group coverage, the Department is amending the January 26, 2008 impact date established for TA-W-65,045A, to read March 22, 2009.

The amended notice applicable to TA-W-65,045A is hereby issued as follows:

"All workers of Parkdale Mills, Inc., Plant #40, Graniteville, South Carolina, who became totally separated from employment on March 22, 2009 through April 6, 2011, 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 22nd day of April 2009.

Linda G. Poole,*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. E9-14070 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR**Employment and Training
Administration**

[TA-W-65,088]

**Snoke Special Products Co., Inc.
Including On-Site Leased Workers
From 1st Choice Personnel and East
Texas Staffing Jacksonville, TX;
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 USC 2273), and Section 246 of the Trade Act of 1974 (26 USC 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 12, 2009, applicable to workers of Snoke Special Products Co., Inc., including on-site leased workers from 1st Choice Personnel, Jacksonville, Texas. The notice was published in the **Federal Register** on March 3, 2009 (74 FR 9278).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of copper tubing components for air conditioners.

New information shows that some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for East Texas Staffing, the parent company of 1st Choice Personnel.

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 Snoke Special Products Co., Inc., Jacksonville, Texas, who were secondarily affected as a supplier of copper tubing components for air conditioners to a trade certified firm.

The amended notice applicable to TA-W-65,088 is hereby issued as follows:

"All workers of Snoke Special Products Co., Inc. including on-site leased workers from 1st Choice Personnel and East Texas Staffing, Jacksonville, Texas, who became totally or partially separated from employment on or after February 2, 2008 through February 12, 2011, 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 13th day of May 2009.

Linda G. Poole,*Certifying Officer, Division of Trade
Adjustment Assistance.*

[FR Doc. E9-14071 Filed 6-15-09; 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 *May 4 through May 8, 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) 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 or 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-65,304A; TecumsehPower Company, Sale Operations, Engine Components, Salem, IN: February 2, 2008.

TA-W-65,304; TecumsehPower Company, Dunlap Operations, Dunlap, TN: February 2, 2008.

TA-W-65,806; Weyerhaeuser NR Company, iLevel Division, Castleberry, AL: April 14, 2008.

TA-W-64,958; Molex, Inc., Transportation Products Divisions, Lincoln, NE: January 21, 2008.

TA-W-65,278; Beck Tool, Inc., Edinboro, PA: February 17, 2008.

TA-W-65,284; Oakhurst Textiles, Inc., A Subsidiary of Oakhurst Specialty Corporation, Browns Summit, NC: February 17, 2008.

TA-W-65,292; KES Systems, Inc., A Subsidiary of KES USA, Tempe, AZ: February 5, 2008.

TA-W-65,477; Osborne and Osborne Wood Products, A Division of Paddy Mountain Lumber Company, Galax, VA: February 19, 2008.

TA-W-65,698; Matrix Publishing Services, York, PA: March 27, 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-65,708; Pattison Sign Group, A Division of Pattison Group, Limestone, ME: March 25, 2008.

TA-W-65,777; Weyerhaeuser NR Company, iLevel Lumber Division, Wright City, OK: April 7, 2008.

TA-W-65,778; Varco Pruden Buildings, Eastern Region, Engineering Div., Kernersville, NC: April 8, 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-65,735A; Johnson Controls, Inc., Technology Centers, Holland, MI: March 1, 2008.

TA-W-65,735; Johnson Controls, Inc., Technology Centers, Plymouth, MI: March 1, 2008.

TA-W-65,759; Arvin Meritor LLC, Div. of Light Vehicle Systems, Detroit, MI: March 8, 2008.

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-64,436; *Georgia Pacific, Inc., Wood Products Division, Coos Bay, OR.*

TA-W-65,246; *Weyerhaeuser NR Company, iLevel Lumber — Aberdeen Div., Aberdeen, WA.*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-65,696; *Alcatel-Lucent, Purchasing Department, Plano, TX.*

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 *May 4 through May 8, 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 15, 2009.

Linda G. Poole,
Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E9-14063 Filed 6-15-09; 8:45 am]
BILLING CODE 4510-FN-P

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 June 26, 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 June 26, 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 14th day of May 2009.

Linda G. Poole,
Certifying Officer, Division of Trade Adjustment Assistance.

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

APPENDIX

TAA petitions instituted between 5/4/09 and 5/8/09

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65876	Magneti Marelli Powertrain USA, LLC (Comp)	Sanford, NC	05/04/09	04/30/09
65877	Albion Associates, Inc. (Wkrs)	High Point, NC	05/04/09	04/19/09
65878	BGF Industries (Wkrs)	Altavista, VA	05/04/09	04/27/09
65879	In-Zone Athletic Wear (Comp)	Fyffe, AL	05/04/09	05/02/09
65880	Carpenter Company (Wkrs)	Cookeville, TN	05/04/09	05/01/09
65881	Scotty's Fashions (Union)	Lehighton, PA	05/04/09	05/01/09
65882	Belcher-Robinson Foundry (Comp)	Alexander City, AL	05/04/09	03/30/09
65883	Muth Mirror Systems (Wkrs)	Sheboygan, WI	05/05/09	05/01/09
65884	Progressive Stamping Company (Comp)	Royal Oak, MI	05/05/09	05/04/09
65885	Morgan AM&T (IUE)	Couder Sport, PA	05/05/09	05/04/09
65886	BG Labs (Comp)	Binghamton, NY	05/05/09	04/17/09
65887	Fuel Systems, Inc. (Wkrs)	Chicago, IL	05/05/09	04/30/09
65888	Collins Ink Corp. (Wkrs)	Cincinnati, OH	05/05/09	04/22/09
65889	Cooper Tire and Rubber Company (Wkrs)	Findlay, OH	05/06/09	05/06/09
65890	Automatic Machine Product (Wkrs)	Corinth, MS	05/06/09	05/01/09
65891	Springs Global US Inc. (Comp)	Sardis, MS	05/06/09	05/05/09
65892	Specmo Enterprises, Inc. (State)	Madison Heights, MI	05/06/09	04/06/09
65893	St. Onge Logging, Inc. (Comp)	Kalispell, MT	05/06/09	05/05/09
65894	Symantec Corporation (Wkrs)	Springfield, OR	05/06/09	05/05/09

APPENDIX—Continued

TAA petitions instituted between 5/4/09 and 5/8/09

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65895	Clarion Sintered Metals (IAM)	Ridgway, PA	05/06/09	04/26/09
65896	North River Boats (Wkrs)	Roseburg, OR	05/06/09	04/09/09
65897	Mipox International (Comp)	Hayward, CA	05/06/09	05/05/09
65898	American and Efind, Inc. (Wkrs)	Mount Holly, NC	05/07/09	05/01/09
65899	John Maneely Company (Wheatland Tube Co.) (USWA)	Sharon, PA	05/07/09	05/05/09
65900	Biederlack of America Corporation (Comp)	Cumberland, MD	05/07/09	05/05/09
65901	VWR International, LLC (State)	West Chester, PA	05/07/09	04/29/09
65902	Noranda Aluminum, Inc. (USW)	New Madrid, MO	05/07/09	05/06/09
65903	Mountain Skyliners, Inc. (Wkrs)	Leavenworth, WA	05/08/09	05/06/09
65904	Grand Rapids Controls (State)	Rockford, MI	05/08/09	04/08/09
65905	Umicore Autocat USA, Inc. (UAW)	Catoosa, OK	05/08/09	05/07/09
65906	Arrow Electronics (Wkrs)	Melville, NY	05/08/09	04/18/09

[FR Doc. E9-14062 Filed 6-15-09; 8:45 am]

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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 June 26, 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 June 26, 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 21st day of May 2009.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

Appendix

TAA PETITIONS INSTITUTED BETWEEN 5/11/09 AND 5/15/09

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
65907	Tecumseh Products (Wkrs)	Verona, MS	05/11/09	05/07/09
65908	DJ Fashions, LLC (Comp)	New York, NY	05/11/09	05/08/09
65909	Northwest Metals, Inc. (Wkrs)	Okolona, OH	05/11/09	05/06/09
65910	Jeld Wen/Ben Fab (Wkrs)	Klamath Falls, OR	05/11/09	05/04/09
65911	Wall Printing Company (Comp)	High Point, NC	05/12/09	05/11/09
65912	L and L Products (Wkrs)	Romeo, MI	05/12/09	05/09/09
65913	Performance Powder Coating, LLC (Wkrs)	Kokomo, IN	05/12/09	05/08/09
65914	Alliance Machine Systems International (Wkrs)	Spokane Valley, WA	05/13/09	04/24/09
65915	Bauhaus USA, Inc. (Comp)	Saltito, MS	05/13/09	05/12/09
65916	Paramount Apparel Industries (Wkrs)	Winona, MO	05/13/09	04/16/09
65917	BonaKemi USA, Inc. (Comp)	Monroe, NC	05/14/09	05/13/09
65918	Wabash Alloys, LLC (Wkrs)	Tipton, IN	05/14/09	05/13/09
65919	Affiliated Computer Services, Inc. (Wkrs)	Lexington, KY	05/14/09	05/11/09
65920	Toyal America, Inc. (Comp)	Lockport, IL	05/15/09	05/14/09
65921	Newport Corporation (Comp)	Irvine, CA	05/15/09	05/15/09
65922	Seton Identification Products, Inc. (Wkrs)	Branford, CT	05/15/09	05/11/09

[FR Doc. E9-14073 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Office of Disability Employment Policy

[SGA 09-03]

Registered Apprenticeship for Youth and Young Adults With Disabilities Initiative; Solicitation for Cooperative Agreements.

Announcement Type: New Notice of Availability of Funds and Solicitation for Grant Applications (SGA) for Cooperative Agreement.

Funding Opportunity Number: SGA 09-03.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.720.

DATES: Key Date: Applications must be received thirty (30) days after the publication date in the **Federal Register**.

Executive Summary: The U.S. Department of Labor ("DOL" or "Department"), Office of Disability Employment Policy (ODEP) and the DOL's Employment and Training Administration's (ETA) Office of Apprenticeship (OA) announce the availability of approximately \$400,000 to fund cooperative agreements to conduct two pilot projects to develop models to improve systems capacity to provide inclusive Registered Apprenticeship training and pre-apprenticeship training to youth and young adults with disabilities with a 24-month period of performance, and the possibility of up to 3 additional option years of funding at the discretion of the Department depending on the availability of funds and satisfactory performance. Under this initiative, funding will be awarded through a competitive process to two consortia to research, test, and evaluate innovative systems models for providing inclusive integrated apprentice training in a high-growth industry to youth and young adults with disabilities, including those with the most significant disabilities, between the ages of 16 and 27. To be considered for an award, consortium applying for the grant must have representation from each of the following four organization types:

1. A Registered Apprenticeship Program (RAP) sponsor in a high-growth industry sector;
2. A community-based organization (CBO) with demonstrated experience securing job training services from established training institutions such as community colleges, and providing placement and support services to apprentices in high-growth industries;

3. A public/private non-profit or for-profit organization, which may be faith-based, with demonstrated experience providing employment and training services and employment related support services to people with disabilities; and
4. An educational institution.

This solicitation provides background information, describes the application submission requirements, outlines the process that eligible entities must use to apply for funds covered by this solicitation, and outlines the evaluation criteria used as a basis for selecting the grantees.

Application and submission information is explained in detail in Part IV of this SGA. There will be a Prospective Applicant Webinar held for this grant competition. The date and access information for this Prospective Applicant Webinar will be posted on ODEP's Web site at <http://www.dol.gov/odep>.

SUPPLEMENTARY INFORMATION: This solicitation consists of eight parts:

- Part I provides a description of this funding opportunity.
- Part II describes the size and nature of the anticipated awards.
- Part III describes eligibility information.
- Part IV provides information on the application and submission process.
- Part V describes the criteria against which applications will be reviewed and explains the proposal review process.
- Part VI provides award administration information.
- Part VII contains DOL agency contact information.
- Part VIII lists additional resources of interest to applicants and other information.

Part I. Funding Opportunity Description

1. Background

The Office of Disability Employment Policy provides national leadership by developing and influencing disability-related employment policies and practices. A five-year strategic plan guides ODEP in achieving its mission by identifying long-term strategic and outcome goals as well as shorter-term intermediate and performance goals. In addition to measuring agency performance, as required by the Government Performance and Results Act (GPRA), the strategic plan sets forth a road map for prioritizing the formulation and dissemination of innovative employment policies and practices to service delivery systems and employers.

ODEP's annual goal is to build knowledge and advance disability employment policy that affects and promotes systems change. The agency's long- and short-term goals focus efforts on initiatives that bring about this level of change. In short, ODEP develops policies and strategies that will:

- Enhance the capacity of service delivery systems to provide appropriate and effective services and supports to youth and adults with disabilities.
- Increase planning and coordination within service delivery systems to develop and improve systems, processes, and services.
- Improve individualization of services to better assist youth and adults with disabilities in seeking, obtaining, and retaining employment or self-employment.
- Increase employer access to supports and services to meet their employment needs.
- Increase the quality of competency-based training for service delivery systems.
- Increase the adoption of universal strategies for service provision.
- Develop partnerships with and among critical stakeholders to effectively leverage available resources and facilitate implementation of practices and policies that increase employment and self-employment opportunities and the recruitment, retention, and promotion of youth and adults with disabilities.

As required by the Government Performance and Results Act, the following three output measures inform ODEP of its progress in meeting its annual goal of building knowledge and advancing disability employment policy:

1. The number of policy-related documents.
2. The number of formal agreements.
3. The number of effective practices.

These performance measures generate results that in turn support the achievement of the following outcome goals: Increased Awareness/Knowledge Transfer; Adoption/Implementation of Policies and/or Effective Practices; and Customer Satisfaction with ODEP's Products and Services. Achievement of these outcome goals will eventually lead to the creation of Most Significant Changes (MSCs) in systems and entities affecting employment opportunities for people with disabilities.

Developing the talents, skills and capabilities of the workforce has always played an important part in our nation's economic strength. The 21st century economic landscape is rapidly changing as technology and globalization alter the nature of work and the skills and

training needed by workers to remain competitive. Ninety percent of the fastest growing jobs in the United States today require post-secondary education. This, coupled with the rapidly growing rate of baby boomer retirements heightens the importance of preparing youth for the skills employers need.

This issue has significant impact on the economic development of communities, states, regional economies and ultimately that of our nation. The workforce investment system plays a vital role in addressing the need to develop talent pools of young workers who serve as a "youth supply pipeline," which helps to drive economic growth.

To improve the competitiveness of U.S. businesses in the global economy, recent high school reform advocates have focused on the need for greater preparation of *all* high school students for both work and advanced education. A widespread recognition now exists that schools must help the nation's youth advance both academically and occupationally, and to see these as compatible goals (Butler, 2006).

Over the past decade through the School to Work Opportunities Act and the Individuals with Disabilities Education Act, the Federal Government has stressed the importance of improving transition services nationally for youth with disabilities, and has assumed a strategic role in supporting state and local efforts to improve transition services through the identification of promising practices, delivery strategies, and policy development. Moreover, the 2006 reauthorization of the Carl D. Perkins Vocational and Technical Education Act has reenergized efforts to promote the use of career and technical education as a strategy for learning in the context of improved academic achievement for all students. In addition, the Workforce Investment Act of 1998 and the No Child Left Behind Act of 2001 have resulted in reform efforts that focus on high academic and occupational standards; promote the use of state and local standards-based accountability systems; call for broad-based partnerships between schools, employers, postsecondary institutions, and families; support full participation and equal access to the general education curriculum; and emphasize research-based teaching methods.

Federal and state efforts to improve transition policies and practices for youth with disabilities over the past decade have resulted in some positive gains including increases in graduation rates, enrollments in postsecondary education, and in the number of youths entering the workforce (Office of Special

Education Programs, Data Analysis System (DANS); Newman, 2005; Cameto and Levine, 2005). For example, national data indicate that there has been some improvement in the overall graduation rate of students with disabilities in the United States. Between the 1995–1996 and 1999–2000 school years, the percentage of youth with disabilities graduating with regular diplomas, as reported by states, grew from 52.6 percent to 56.2 percent while the percentage of students with disabilities who dropped out of school declined from 34.1 percent to 29.4 percent (U.S. Department of Education, 2002).

Nonetheless, significant challenges remain. National studies and reports have shown that, compared to their non-disabled peers, students with disabilities are less likely to receive a regular high school diploma; drop out twice as often; and enroll in and complete postsecondary education programs at half the rate. Up to two years after leaving high school, about 4 in 10 youth with disabilities are employed as compared to 6 in 10 same-age out-of-school youth in the general population (National Center for Education Statistics, 2000; National Longitudinal Transition Study-2 (NLTS-2), 2005).

The Department's Bureau of Labor Statistics released the first official data on the employment status of people with disabilities on February 6, 2009. In January 2009, the employment rate for people with disabilities was 23.1 percent. The unemployment rate for those with disabilities was 13.2 percent. (<http://www.bls.gov/cps/cpsdisability.htm>).¹ The National Longitudinal Transition Study-2 (NLTS-2) indicates that employment rates vary considerably across disability categories for students with disabilities who were enrolled in special education. Youth with learning disabilities, emotional disturbances, other health impairments, or speech impairments are the most likely to be employed in a 1-year period (50 percent to 60 percent). In contrast, youth with significant disabilities have significantly lower employment rates, e.g., 15 percent for youth with autism, 25 percent for youth with multiple disabilities, deaf-blindness, or orthopedic impairments,

and 33 percent for youth with mental retardation or visual impairments.

A number of recent studies examining career and technical education programs and the use of structured work-based learning approaches suggest that such approaches are an important aspect of and contribute to better outcomes in school, e.g., student achievement; knowledge assimilation and retention; motivation and post-school, e.g., educational continuation and employment success (AYPF, 2003; National Association of State Directors of Career Technical Education, 2003). Moreover, when youth with disabilities take career and technical education in their last year of high school or concentrate in a career and technical education content area, research indicates that they have higher rates of high school graduation, competitive employment, postsecondary education attendance, and advances in earnings or wages (Scholl & Mooney, 2003; Benz, Lindstrom, & Yovanoff, 2000; Cobb, *et al.*, 1999; Eisenman, 2000; Harvey, 2002; Luecking & Fabian, 2000; Phelps, 1998).

Research further identifies the following program components as effective in linking work experiences with permanent employment and postsecondary education success for students with and without disabilities:

- Work-based and school-based learning supported by high academic content and standards;
- Standards that emphasize the *application* of knowledge and skills to the same extent that they emphasize their *accomplishment*;
- Integration of academic and vocational education;
- Authentic teaching and learning strategies that ensure students gain a better understanding of the connections between learning and working;
- Opportunities for students to explore their interests and ambitions, and to apply and practice skills and knowledge;
- Exposure to positive role models and constructive support systems; and
- Family/parental involvement and support (Scholl & Mooney, 2002; Hayward & Tallmadge, 1995; Lambrecht *et al.*, 1997; Merritt & Williams, 1999; Phelps & Wermuth, 1992; Woloszyk, 1996).

Registered Apprenticeship programs offer one type of career and technical education experience that can help youth and young adults with disabilities to achieve employment success. A Registered Apprenticeship is a nationally registered program overseen either by DOL's Office of Apprenticeship working in conjunction with State Apprenticeship Agencies

¹ After several years of research and testing, ODEP sponsored the addition of new disability questions to the Current Population Survey (CPS) to generate data to gauge the employment status of people with disabilities. These data provide, for the first time, an official measure to the labor force situation for people with disabilities.

(SAAs) in states which are recognized by DOL as authorized to register apprentices for Federal purposes or by DOL's OA in other states. Apprentices may begin a Registered Apprenticeship at age 16, but the minimum age for most programs is 18. Most apprenticeship programs require applicants to possess high school diplomas. Program sponsors, which include employers, employer associations, and labor-management organizations, voluntarily operate and cover most or all costs of the program.

Newly revised regulations issued by DOL on October 29, 2008 create more flexibility for apprentices and employers, providing each with increased choices to meet the needs of industries that have traditionally used Registered Apprenticeship programs, as well as the needs of new and emerging industries. The most significant changes to the regulations include the recognition of multiple training approaches which increase flexibility for employers to select the path that best serves an apprentice's and/or an employer's needs. Under the new regulations, in addition to the traditional, time-based approach, which requires the apprentice to complete a specific number of hours of on-the-job training and technical instruction, training may also be provided via a competency-based approach, or a hybrid of a time and competency based approach. The newly revised regulations also provide for the awarding of interim credentials that offer active apprentices official recognition of their accomplishments and equip them with a portfolio of skills and incentives to continue their career preparation and complete their programs. Increased options for using electronic media to provide related technical instruction are also provided, allowing for distance learning and other technology-based instruction.

More than 950 occupations across all industry clusters nationwide are recognized through Registered Apprenticeship programs, and new occupations are regularly added as employer needs evolve to meet new economic realities. These occupations span a broad range of industry clusters and demonstrate the power of the Registered Apprenticeship model to build a 21st century workforce.

In the United States today, approximately 250,000 separate employers offer Registered Apprenticeship employment and training to almost 450,000 apprentices in such industries as construction, manufacturing, transportation, telecommunications, information

technology, biotechnology, retail, health care, the military, utilities, security, and the public sector. By providing on-the-job training, related classroom instruction, and guaranteed wage structures, employers who sponsor apprentices provide incentives that can help them to attract and retain more highly qualified employees and improve productivity and services. Regions that adopt robust Registered Apprenticeship programs in the context of economic development strategies contribute to the pipeline of skilled workers and flexible career pathways to support current and future workforce demands.

The duration of training, and the skills and competencies required for mastery, are driven by industry. Certifications earned through Registered Apprenticeship programs are recognized nationwide as portable industry credentials. The primary apprentice certification is a Certificate of Completion of Apprenticeship, which is awarded at the end of the apprenticeship. Many apprenticeship programs, however, particularly in high-growth industries such as health care, advanced manufacturing, and transportation, also offer interim credentials and training certificates based on a competency model that leads to a Certificate of Completion. There may be beginning, intermediate, advanced, and specialty certification levels. Registered Apprenticeship programs also allow credit for previous apprenticeship-related experience.

Pre-apprenticeship training programs serve as a bridge for youth exploring career options and workers who may not have the fundamental skills to succeed in a Registered Apprenticeship program. Operated by education, community- or faith-based organizations, these training programs can help apprenticeship candidates decide on an occupational track and develop fundamental skills which improve productivity once employed. Pre-apprenticeship programs operate under an approved plan whereby candidates participate in a short, intensified training period in a school or training center with the intent to place them in Registered Apprenticeships upon completion or soon after completion of the program. Pre-apprenticeship can be used as a means of selecting apprentices under a particular program sponsor's approved program standards.

Two DOL sponsored national programs, Job Corps and YouthBuild, have the potential to serve as pre-apprentice feeder programs into Registered Apprenticeship. While Youth Build focuses on the building and

construction trades, Job Corps provides more variety in course offerings, ranging from culinary arts to automotive technology.

Although limited research has been conducted on the impact of apprenticeship programming on post-secondary and employment outcomes for people with disabilities, an independent study conducted by the Center on Education and Work at the University of Wisconsin for the Wisconsin Governor's Work-Based Learning Board on graduates' experiences with the Wisconsin Youth Apprenticeship Program suggests a positive link between apprenticeship and employment earnings, retention, and enrollment in post-secondary education (Mickelson, Pereira, Fillingame, 2005). In addition, an earlier study on this same program identified the following factors as enhancing the success of all youth apprentices with and without disabilities:

1. High levels of program organization and coordination;
2. Meaningful and consistent communication between stakeholders;
3. A good "fit" between a young persons' abilities and their chosen youth apprenticeship career field;
4. A quality worksite placement (*e.g.*, adequate rotation through competencies, presence of an experienced mentor); and
5. Rigorous and engaging classroom instruction that integrated technical and academic competencies.

While these factors were central to all youth apprenticeship experiences, they were found to be particularly critical in the apprenticeship experiences of youth with disabilities (Scholl & Mooney, 2003).

Although Federal legislation mandates that youth and young adults with disabilities have equal opportunity to benefit from the full range of career/technical educational programs and services available to their peers without disabilities, research conducted on this issue by ODEP in 2007 revealed that youth and young adults with disabilities rarely participate in apprenticeship programs. To capitalize on the potential that apprenticeship holds for improving employment opportunity and self-sufficiency for youth and young adults with disabilities, including those with significant disabilities, ODEP and OA have joined in this capacity-building initiative.

2. Description and Purpose

The overarching goal for this solicitation is to increase systems capacity to provide integrated inclusive apprenticeship training to youth and

young adults with a full range of disabilities, including those with the most significant disabilities, utilizing the increased flexibilities detailed in DOL's newly released apprenticeship regulations. To help address the disproportionately negative employment-related outcomes of youth and young adults with disabilities, ODEP in collaboration with the OA will award cooperative agreements to two consortia.

Capitalizing on the increased flexibilities allowable under DOL's revised apprenticeship regulations, 29 CFR Part 29, regarding the provision of training and interim credentialing, successful applicants will research, develop, and evaluate innovative models of Registered Apprenticeship service delivery that are inclusive of youth and young adults with disabilities, including those with significant disabilities, between the ages of 16 and 27. It is expected that the models will produce skilled workers who are in demand in one or more high-growth, high-demand industries including but not limited to, construction, healthcare, green jobs, information technology, and biotechnology. To create a continuum of service delivery for youth with disabilities of high-school age, and to provide apprenticeship opportunities for those who may lack relevant skills, and those who may have dropped out or otherwise failed to obtain a high school diploma, the service delivery model being developed must also include a pre-apprenticeship component.

In addition to consortium members, successful applicants will also have formal partnerships with one or more of the following groups: employers, organized labor, employer associations, disability organizations, mental health, and developmental disability agencies, vocational rehabilitation agencies, One-Stop Career Centers, workforce investment boards, educational institutions, and the State Apprenticeship Agencies in states which are recognized by DOL as authorized to register apprentices for Federal purposes or the DOL Office of Apprenticeship in other states. Together, representatives of these partnerships will serve as the Advisory Council for the design and operation of this initiative.

Allowable uses of grant funds include:

- a. Education and workforce investment activities such as:
 - Basic skills instruction and remedial education;
 - Tutoring, credit retrieval programs, drop-out prevention activities, GED

instruction, and career awareness classes;

- Counseling and assisting with obtaining postsecondary education and required financial aid;
- Alternative secondary school services;
- Job placement services;
- Job coaching;
- Vocational skills training;
- Occupational skills training;
- Paid and unpaid work experiences, including internships and job shadowing; and
- Career-related mentoring.

b. Participant personal development activities that seek to develop non-technical skills, abilities, and traits that participants need to function in a specific employment environment that support one or more workplace competencies including problem-solving and other cognitive skills, oral communication skills, personal qualities, and work ethic, and interpersonal and teamwork skills. Examples include leadership training, financial literacy, and job readiness training.

c. Recruiting employers to provide training and supervision for apprentices and pre-apprentices and students to participate in the pilot.

d. Monitoring the progress of pilot participants.

e. Employment-related support services and accommodations.

f. Follow-up services that focus efforts on job retention, wage gains and career progress through regular contact with participant employers, including assistance in addressing work-related problems that arise, assistance in securing better paying jobs, career development and further education, mentoring, and tracking of progress made by participants in employment after training.

g. Researching, testing, and evaluating the program model(s).

3. Definitions

Definitions for purposes of this solicitation include:

- *Youth and young adults with disabilities* refers to individuals with disabilities who are ages 16 to 27.
- *Significant disability* is defined as an individual with a disability who is receiving Social Security or Supplemental Security Income disability benefits.
- *Pre-Apprenticeship Programs* are those programs that prepare individuals for Registered Apprenticeship.
- *Registered Apprenticeship* is a formal employment relationship designed to promote skill training and learning on the job that is certified by

DOL or a federally-recognized SAA as meeting the basic standards and requirements of DOL. "Hands on" learning takes place in conjunction with related theoretical instruction (often in a classroom setting). An apprentice, who successfully completes an OA registered program, is awarded a certificate of completion of apprenticeship. Newly revised DOL apprenticeship regulations, 29 CFR Part 29, also provide for interim credentialing. An OA registered program is one in which employers, or groups of employers, and unions design, organize, manage, and finance apprenticeship programs under the standards developed and registered with OA or an OA-recognized State Apprenticeship Agency. Employers, or groups of employers, and unions also select apprentices who are trained to meet certain predetermined occupational standards. For more information, see the OA Web site at <http://www.doleta.gov/oa/>.

- *Community-Based Organization* is a private non-profit organization, which may be faith-based, that is representative of a community or a significant segment of a community, which has for this project demonstrated experience in securing job training services from established training institutions such as community colleges, and providing placement and support services to apprentices in high-growth industries (included within the definition are "union-related organizations" and "employer-related nonprofit organizations").

- *RAP* refers to a Registered Apprenticeship Program.

- *Consortium* refers to a group formed to undertake a project. The consortium required for this solicitation must have representation from each of the following four organization types:

- (1) A RAP sponsor in a high-growth industry sector;

- (2) A CBO with demonstrated experience in securing job training services from established training institutions such as community colleges, and providing placement and support services to apprentices in high-growth industries;

- (3) A public/private non-profit or for-profit organization, including faith-based organizations, with demonstrated experience in providing employment and training services and employment related support services to people with disabilities; and

- (4) An educational institution.

Part II. Award Information

1. Award Amount

Funding is expected to be provided for two Registered Apprenticeship cooperative agreements at approximately \$200,000 each. Applicants are required to submit budgets within this financial range. The budget should reflect a phased approach that anticipates a planning period of up to 6 months followed by 18 full months of project operations.

Note: Selection of an organization as a grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, DOL may enter into negotiations about such items as program components, staffing and funding levels, and administrative systems in place to support grant implementation. If the negotiations do not result in a mutually acceptable submission, the Grant Officer reserves the right to terminate the negotiation and decline to fund the application.

Inasmuch as the award will be made in the form of a cooperative agreement, DOL will have substantial involvement in the administration of the agreement. Such DOL involvement will consist of:

- (1) Approval of any subcontract awarded by the grantee after the grant award;
- (2) Participation in site visits to project areas;
- (3) Providing advice and consultation to the grantee on specific program criteria;
- (4) Providing the grantee(s) with technical and programmatic support, including training in DOL monitoring and evaluation systems, and standard procedures regarding DOL management of cooperative agreements;
- (5) Reviewing, at reasonable times, all documents pertaining to the project, including status and technical progress reports, and financial reports. ODEP will provide the format for the reports;
- (6) Discussing administrative and technical issues pertaining to the project;
- (7) Approving all key personnel decisions, and sub-contractors or sub-awardees;
- (8) Approving all deliverables, including but not limited to fact sheets, training materials, press releases and publicity-related materials regarding the project;
- (9) Approving all content for online resources developed through project activities, including clearing concepts for material production and final document production; and
- (10) Drafting terms of reference for, and participating in project evaluations.

2. Period of Performance

Cooperative Agreements will be awarded for an initial twenty four (24) month period of performance. This period of performance includes up to a six (6) month planning period prior to project implementation and at least eighteen (18) full months of direct service delivery. Each grant may receive up to three (3) additional option years of funding at the discretion of the Department depending on the availability of funds and satisfactory performance.

Part III. Eligibility Information and Other Grant Specifications

1. Eligible Applicants

Under this announcement only consortia may apply for and receive a cooperative agreement. Each consortium must, at a minimum, have representation from each of the following four organization types: (1) A RAP sponsor in a high-growth industry sector; (2) A CBO with demonstrated experience in securing job training services from established training institutions such as community colleges, and providing placement and support services to apprentices in high growth industries; (3) A public/private non-profit or for-profit organization which may be faith-based with demonstrated experience in providing employment and training services and employment related support services to people with disabilities; and (4) An educational institution. This requirement does not in any way prevent the participation of other entities, which are integral to the implementation of the project. All applications must clearly identify the lead grant recipient and fiscal agent, as well as all other members of the consortium applying for the cooperative agreement. In addition, the application must identify the relationship between all of the members of the consortium, and their respective roles in carrying out the project.

According to section 18 of the Lobbying Disclosure Act of 1995, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities will not be eligible for the receipt of Federal funds constituting an award, grant, or loan. See 2 U.S.C. 1611; 26 U.S.C. 501(c)(4). Funding restrictions apply. See Section IV(5).

2. Cost Sharing or Matching

Cost sharing, matching funds, and cost participation are not required under this SGA. However, complementary funds will be needed to pay the costs

associated with providing training to participants who are youth without disabilities. The leveraging of public and private resources to foster inclusive service delivery and achieve project sustainability is highly encouraged and included under evaluation criteria. See Section V (1)(b)(8) below.

Leveraged resources can come from a variety of sources, including but not limited to: public sector (*e.g.*, Federal, State, or local governments); non-profit sector (*e.g.*, community organizations, faith-based organizations, or education and training institutions); private sector (*e.g.*, businesses or industry associations); investor community (*e.g.*, angel networks); philanthropic community; and the economic development community. Applicants must describe in detail how such leveraged funds will be used and demonstrate how these funds will contribute to the goals of the project.

3. Other Eligibility Requirements

Eligible Enrollees

An individual may participate in a Registered Apprenticeship-focused project funded through this cooperative agreement if such individual is between the ages of 16 and 27 on the date of enrollment. Although the Registered Apprenticeship program training model being tested must be inclusive and will therefore include youth without disabilities, funding for the training provided to youth without disabilities is not an allowable expense under this grant.

Legal Rules Pertaining to Inherently Religious Activities by Organizations that Receive Federal Financial Assistance:

Direct Federal grants, sub-award funds, or contracts under this program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this program. Neutral, secular criteria that neither favor nor disfavor religion must be employed in the selection of grant and sub-grant recipients. In addition, under the Workforce Investment Act of 1998 and DOL regulations implementing the Workforce Investment Act, a recipient may not use direct Federal assistance to train a participant in religious activities, or employ participants to construct, operate, or maintain any part of a facility that is used or to be used for religious instruction or worship. See 29 CFR 37.6(f). Under WIA, "no individual shall be excluded from participation in,

denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972 and the Religious Freedom Restoration Act of 1993), national origin, age, disability, or political affiliation or belief." Regulations pertaining to Equal Treatment in Department of Labor Programs for Religious Organizations, which includes the prohibition against Federal funding of inherently religious activities, can be found at 29 CFR Part 2, Subpart D. Provisions relating to the use of indirect support (such as vouchers) are at 29 CFR 2.33(c) and 20 CFR 667.266.

A faith-based organization receiving Federal funds retains its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs. For example, a faith-based organization may use space in its facilities to provide secular programs or services funded with Federal funds without removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization that receives Federal funds retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents in accordance with all program requirements, statutes, and other applicable requirements governing the conduct of DOL-funded activities.

The Department notes that the Religious Freedom Restoration Act (RFRA), 42 U.S.C. sec. 2000bb, applies to all Federal law and its implementation. If your organization is a faith-based organization that makes hiring decisions on the basis of religious belief, it may be entitled to receive Federal financial assistance under Title I of the Workforce Investment Act and maintain that hiring practice even though Section 188 of the Workforce Investment Act contains a general ban on religious discrimination in employment. If you are awarded a grant, you will be provided with information on how to request such an exemption.

4. Priority of Service for Veterans and Eligible Spouses

The Jobs for Veterans Act (Pub. L. 107-288) requires priority of service for veterans and spouses of certain

veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole, or in part, by the Department. On December 19, 2008, the Department published a Final Rule (at 20 CFR Part 1010) implementing this statutory requirement to provide priority of service, effective January 19, 2009. A copy of these regulations can be accessed at: <http://www.dol.gov/vets/E8-30166.pdf>. Section 1010.220 of these regulations requires all recipients of Department job training funds to agree to implement priority of service as a condition for the receipt of funds and also requires all recipients of funds to ensure that priority of service is implemented by all of their sub-recipients. ETA Training and Employment Guidance Letter (TEGL) No. 5-03 (September 16, 2003), which was issued prior to publication of the regulations, provides guidance on the scope of the Jobs for Veterans Act and its implications for employment and training programs. TEGL No. 5-03, along with additional guidance, is available at the "Jobs for Veterans Priority of Service" Web site (<http://www.doleta.gov/programs/vets>). It is anticipated that updated guidance that more fully reflects the new regulations will be issued in the near future.

Part IV. Application and Submission Information

1. Address to Request Application Package

This announcement contains all of the information and links to forms needed to apply for this funding opportunity. Additional application packages and amendments to this SGA may be obtained from the ODEP Web site address at www.dol.gov/odep, and the Federal Grant Opportunities Web site address at <http://www.grants.gov>.

2. Content and Form of Application Submission

The three required sections of the application are titled below and described thereafter:

Part I: The Cost Proposal/Budget (No page limit).

Part II: Executive Summary—Project Synopsis (Not to exceed two (2) pages).

Part III: Project Narrative (Not to exceed twenty-five (25) pages excluding timeline and organizational chart).

Applications that fail to adhere to the instructions in this section will be considered non-responsive and may not be given further consideration.

A. Part I is the Cost Proposal/Budget and must include the following three items:

- The Standard Form (SF) 424, "Application for Federal Assistance" (available at http://www07.grants.gov/agencies/approved_standard_forms.jsp). The SF-424 must clearly identify the applicant and be signed by an individual with authority to enter into a grant agreement. Upon confirmation of an award, the individual signing the SF 424 on behalf of the applicant shall be considered the representative of the applicant.

- Dun and Bradstreet (DUNS) number. All applicants for Federal grant and funding opportunities are required to have a DUNS number. See OMB Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003). Applicants must supply their DUNS number on the SF-424. The DUNS number is a nine-digit identification number that uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access this Web site: <http://www.dnb.com/us/> or call 1-866-705-5711. If no DUNS number is provided then the grant application will be considered non-responsive and it will not be evaluated. Requests for exemption from the DUNS number requirement must be made to the Office of Management and Budget.

- The SF-424-A Budget Information Form (available at: http://www07.grants.gov/agencies/approved_standard_forms.jsp). In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request. The budget narrative should break down the budget and leveraged resources by the activities specified in the technical proposal. The narrative should also discuss precisely how the administrative costs support the project goals.

Applicants that fail to provide a SF-424, SF-424-A and/or a budget narrative will be removed from consideration prior to the technical review process. Leveraged resources should not be listed on the SF-424 or SF-424-A Budget Information Form, but must be described in the budget narrative and in Part II of the proposal. The amount of Federal funding requested for the entire period of performance must be shown on the SF-424 and SF-424-A Budget Information Form. Applicants are also required to submit OMB control number 1890-0014 Survey on Ensuring Equal Opportunity for Applicants, which can be found at: http://www.doleta.gov/grants/find_grants.cfm and a completed

Assurance and Certification signature page must be submitted.

B. Part II is the Executive Summary technical proposal which must contain the following information:

- A Project Synopsis of no more than two single-spaced, single-sided pages on 8½" x 11" paper with standard margins throughout that identifies the following:

- (1) The lead entity;
- (2) The list of consortium members; and
- (3) An overview of how the applicant will carry out research activities described in this solicitation.

C. Part III is the Project Narrative which must satisfy the requirements outlined below:

- The DOL Cooperative Agreement Project Narrative is limited to twenty-five (25) double-spaced single-sided with a 12-point font and one-inch margins. Any pages submitted in excess of this twenty-five (25) page limit will not be reviewed.

Note: Any Appendices, including letters of cooperation and resumes are not included in the twenty-five (25) page limit. The Timeline and Organizational Chart are also not included in this page limit. A page is 8½" x 11" (on one side only) with one-inch margins (top, bottom, and sides). All text in the application narrative, including titles, headings, footnotes, quotations, and captions must be double-spaced (no more than three lines per vertical inch); and, if using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch (if using a non-proportional font or a typewriter, do not use more than 12 characters per inch).

- The Project Narrative includes the applicant's capability to plan, implement, and evaluate a pilot project in accordance with the provisions of this solicitation. Following the outline provided in Section V (Significance of the Proposed Project, Project Design, Organizational Capacity and Quality of Key Personnel, Budget and Resource Capacity, Quality of the Management Plan, and Quality of the Project Evaluation), successful applicants will describe in the Project Narrative their innovative and comprehensive plan for accomplishing the research activities described in Part (1), Description and Purpose and Part I (2) Background. The Project Narrative must:

1. Identify members of the consortium (including the lead entity, a minimum of 4 consortium members is required) and provide documentation (such as letters of intent and memorandum of agreement which must be included in an Appendix) of a formal agreement of participation.

2. Demonstrate each of the consortium members' relevant experience and expertise.

3. Describe in detail the key features of the apprenticeship training program model that will be tested for effectiveness using these cooperative agreement funds, specifying the occupation(s) that will be the focus of the program, how any disability-related needs of youth and young adult participants will be addressed, and the potential contribution of the proposed project to increasing the quality and availability of integrated inclusive apprenticeship training to youth and young adults with a full range of disabilities.

4. Identify the organizations that will be the sponsoring agency(ies) for the Registered Apprenticeship program, and provide a memorandum of understanding or letter from these unions or employers indicating that they will be the sponsoring agencies for the project.

5. Describe the experience of the sponsoring agency(ies)/organizations in conducting apprenticeship training, including any currently operating apprenticeship training they are providing.

6. Identify the organizations that will serve on the advisory council for the apprenticeship program, and provide letters from these organizations indicating that they will serve on the advisory council.

7. Identify the number of individuals that will be served by this program when fully operational.

8. Describe how participants, with and without disabilities, will be identified and selected for the Registered Apprenticeship program.

9. Describe the characteristics of the participants the project expects to serve (*i.e.* age, number of participants, types of disabilities, educational level).

10. Describe the types of employment-related support services and follow-up services that will be provided to assist program participants with disabilities and how they will be funded.

11. Discuss how the workforce investment system will be a partner in this project, and include a memorandum of understanding or letter from the workforce investment system describing their role in the project.

12. Describe the role of educational institutions in the project.

13. Discuss what complementary funds will be leveraged to cover the cost of services being provided to youth without disabilities.

14. Describe what efforts will be undertaken to establish workforce system, community, business, disability

and school-based partnerships sufficient to support project implementation.

15. Describe efforts that will be undertaken to encourage the active involvement of people with all types of disabilities, and disability-related experts, and organizations in project activities.

16. Identify additional Federal, state, and other resources that will be leveraged and used to support and sustain the overall objectives of the grant.

17. Describe in detail the design and analysis that will be used to validate the model being tested and the methods and procedures that will be used for collecting, analyzing, and reporting data in order to evaluate the project.

18. Describe the procedures and approaches that will be used to work with multiple Federal, state and local public agencies, and business, disability, and other private entities to sustain, replicate, and expand the apprenticeship model being tested.

- Each Project Narrative must also include:

1. A detailed twenty-four (24) month management plan for project goals, objectives, and activities;

2. A detailed twenty-four (24) month timeline for project activities, including producing and submitting a final report;

3. A detailed outline for an evaluation of the project which references the applicant's commitment to working with ODEP on all evaluation activities (see Section V(1)(F), below, for more information);

4. A description of procedures and approaches that will be used to provide ongoing communication, collaboration with, and input from ODEP's Project Officer on all grant-related activities;

5. A detailed description of how the consortia will work with multiple Federal, state and local public and private partners in carrying out project activities; and

6. A detailed description of measures that will be taken to ensure the sustainability of the apprenticeship model implemented after Federal funding ceases.

- The Project Narrative must describe the proposed staffing for the project and must identify and summarize the qualifications of the personnel who will carry it out. In addition, the applicant must provide an organizational chart for staff that will operate the proposed project. In instances where the project is part of the work of a larger organization (*i.e.* a lead human services agency), please include a diagram that indicates where the proposed project will fit within the larger organization. (The organizational chart does not count

toward the twenty-five (25) page limit for the Project Narrative.)

- In addition, the evaluation criteria listed in Section V(1)(c), below, include consideration of the qualifications, including relevant education, training and experience of key project personnel, as well as the qualifications, including relevant training and experience, of project consultants or subcontractors. Resumes must be included in the appendices. Key personnel, which need not all be from the same consortium organization, include: Principle Investigator, Project Director, Project Coordinator, Project Manager, Research Analyst, and any other individual playing a substantial role in the project. In addition, the applicant must specify in the application, the percentages of time to be dedicated by each key person on the project.

- For each staff person named in the application, please provide documentation of all internal and external time commitments. In instances where a staff person is committed on a federally supported project, please provide the project name, Federal office, program title, the project Federal Award Number, and the amount of committed time by each project year. This information (e.g., Staff: Jane Doe; Project Name: Succeeding in the General Curriculum; Federal Office: Office of Special Education Programs; Program Title: Field Initiated Research; Award Number: H324C980624; Time Commitments: Year 1—30 percent; Year 2—25 percent, and Year 3—40 percent) can be provided as an appendix to the application.

In general, ODEP will not reduce time commitments on currently funded grants from the time proposed in the original application. Therefore, we will not consider for funding any application where key staff are bid above a time commitment level that staff have available to bid. Further, the time commitments stated in newly submitted applications will not be negotiated down to permit the applicant to receive a new grant award.

- The Project Narrative should also describe how the applicant plans to comply with the employment discrimination and equal employment opportunity requirements of the various laws listed in the assurances section.

Applications may be submitted electronically on http://www.grants.gov/applicants/app_help_reso.jsp#faqs or in hard-copy via U.S. mail, professional delivery service, or hand delivery. These processes are described in further detail in Section IV(3). Applicants submitting proposals in hard-copy must submit an original signed application

(including the SF-424) and two (2) “copy-ready” versions free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hard-copy are also requested, though not required, to provide an electronic copy of the proposal on CD-ROM.

3. Submission Date, Times, and Addresses

The closing date for receipt of applications under this announcement is thirty (30) days after the publication date in the **Federal Register**.

Applications must be received at the address below no later than 5 p.m. (Eastern Time). Applications submitted electronically through Grants.gov, must be successfully submitted <http://www.grants.gov> no later than 5 p.m. (Eastern Time) on that same date, and then subsequently validated by Grants.gov. The submission and validation process is described in more detail below. The process can be complicated and time-consuming. Applicants are strongly advised to initiate the process as soon as possible and to plan for time to resolve technical problems if necessary.

Applications sent by e-mail, telegram, or facsimile (fax) will not be accepted.

If an application is submitted by both hard-copy and through www.grants.gov a letter must accompany the hard-copy application stating why two applications were submitted and the differences between the two submissions. If no letter accompanies the hard-copy we will review the copy submitted through www.grants.gov. For multiple applications submitted through www.grants.gov, we will review the latest submittal.

Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

Mail/overnight mail/hand delivery— To apply by mail, please submit one (1) blue-ink signed, typewritten original of the application and two (2) signed photocopies in one package to the United States Department of Labor, Procurement Services Center, Attention: Cassandra Mitchell, Reference SGA (09-03), 200 Constitution Avenue, NW., Room S-4307, Washington, DC 20210. Information about applying online through www.grants.gov can be found in Section IV.B of this document. Applicants are advised that mail delivery in the Washington area may be delayed due to mail decontamination procedures. Hand delivered proposals will be received at the above address.

Electronic submission— Applicants may apply online through Grants.gov (<http://www.grants.gov>). It is strongly recommended that before the applicant begins to write the proposal, applicants should immediately initiate and complete the “Get Registered” registration steps at http://www.grants.gov/applicants/get_registered.jsp. These steps may take multiple days or weeks to complete, and this time should be factored into plans for electronic submission in order to avoid unexpected delays that could result in the rejection of an application. It is highly recommended that applicants use the “Organization Registration Checklist” at http://www.grants.gov/assets/Organization_Steps_Complete_Registration.pdf to ensure the registration process is complete.

Within two business days of application submission, Grants.gov will send the applicant two e-mail messages to provide the status of application progress through the system. The first e-mail, almost immediate, will confirm receipt of the application by Grants.gov. The second e-mail will indicate the application has either been successfully validated or has been rejected due to errors. Only applications that have been successfully submitted and successfully validated will be considered. It is the sole responsibility of the applicant to ensure a timely submission, therefore sufficient time should be allotted for submission (two business days), and if applicable, subsequent time to address errors and receive validation upon resubmission (an additional two business days for each ensuing submission). It is important to note that if sufficient time is not allotted and a rejection notice is received after the due date and time, the application will not be considered.

The components of the application must be saved as either .doc, .xls or .pdf files. Documents received in a format other than .doc, .xls or .pdf will not be read.

The Grants.gov helpdesk is available from 7 a.m. (Eastern Time) until 9 p.m. (Eastern Time). Applicants should factor the unavailability of the Grants.gov helpdesk after 9 p.m. (Eastern Time) into plans for submitting an application.

Applicants are strongly advised to utilize the plethora of tools and documents, including FAQs, that are available on the “Applicant Resources” page at http://www.grants.gov/applicants/app_help_reso.jsp#faqs. To receive updated information about critical issues, new tips for users and other time sensitive updates as information is available, applicants may subscribe to “Grants.gov Updates” at

http://www.grants.gov/applicants/e-mail_subscription_signup.jsp. If applicants encounter a problem with Grants.gov and do not find an answer in any of the other resources, call 1-800-518-4726 to speak to a Customer Support Representative or e-mail support@grants.gov.

Late Applications: For applications submitted on Grants.gov, only applications that have been successfully submitted no later than 5 p.m. (Eastern Time) on the closing date and successfully validated will be considered. For applicants not submitting on Grants.gov, any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made, was properly addressed, and: (a) Was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., an application required to be received by the 20th of the month must be postmarked by the 15th of that month) or (b) was sent by professional overnight delivery service to the addressee not later than one working day prior to the date specified for receipt of applications.

“Postmarked” means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service. Therefore, applicants should request the postal clerk to place a legible hand cancellation “bull’s eye” postmark on both the receipt and the package. Failure to adhere to the above instructions will be a basis for a determination of non-responsiveness. Evidence of timely submission by a professional overnight delivery service must be demonstrated by equally reliable evidence created by the delivery service provider indicating the time and place of receipt.

4. *Withdrawal of Applications*

Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative’s identity is made known and the representative signs a receipt for the proposal.

5. *Intergovernmental Review*

This funding opportunity is not subject to Executive Order (EO) 12372,

“Intergovernmental Review of Federal Programs.”

6. *Funding Restrictions*

All proposed costs must be necessary and reasonable in accordance with Federal guidelines. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., Non-Profit Organizations—OMB Circular A-122. Disallowed costs are those charges to a grant that the grantor agency or its representative determines not to be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant. Applicants will not be entitled to reimbursement of pre-award costs.

7. *Indirect Costs*

As specified in OMB Circulars on Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular cost objective. In order to utilize grant funds for indirect costs incurred, the applicant must obtain an Indirect Cost Rate Agreement with its Federal Cognizant Agency either before or shortly after the grant award. The Federal Cognizant Agency is generally determined based on the preponderance of Federal dollars received by the recipient.

8. *Administrative Costs*

An entity that receives a grant to carry out a project or program may not use more than 15 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be both direct and indirect costs and are defined at 20 CFR 667.220. Administrative costs do not need to be identified separately from program costs on the SF-424A Budget Information Form. They should be discussed in the budget narrative and tracked through the grantee’s accounting system. To claim any administrative costs that are also indirect costs, the applicant must obtain an Indirect Cost Rate Agreement from its Federal Cognizant Agency as specified above.

V. *Application Review Information*

1. *Evaluation Criteria*

A technical panel will review grant applications against the criteria listed below, on the basis of the maximum points indicated.

(a) *Significance of the Proposed Project (10 Points)*

In determining the significance of the proposed research, the Department will consider the following factors:

(1) The potential contribution of the proposed project to increase knowledge or understanding of problems, issues, or effective strategies for providing inclusive Registered Apprenticeship training services and supports to youth and young adults with disabilities;

(2) The likelihood that the proposed project will result in systems change or improvement;

(3) The extent to which the proposed project is likely to build capacity to provide, improve, or expand services that address the needs of the target population as they relate to employment;

(4) The likely replicability of the model that will result from the proposed project, and its potential for being used effectively in a variety of other settings;

(5) The importance or magnitude of the results or outcomes likely to be attained by the proposed project; and

(6) The extent to which the proposed project builds upon prior work done by ODEP and its partners around youth in transition, including the *Guideposts for Success* and related policies and practices.

(b) *Project Design (25 Points)*

In evaluating the quality of the proposed project design, the Department will consider the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(2) The extent to which the design of the proposed project includes a high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement and measurement of project objectives;

(3) The extent to which the proposed project will effectively contribute to increased knowledge and understanding by building upon current theory, research, and effective practices;

(4) The extent to which the proposed project encourages involvement of youth with disabilities and their families, relevant experts, organizations and groups;

(5) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project;

(6) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services as well as to the needs of employers;

(7) The adequacy of the documentation submitted in support of the proposed project to demonstrate the

commitment of each entity or individual included in project implementation;

(8) The extent to which the proposed project leverages other public and private resources to foster inclusive service delivery and sustainability and provides other concrete evidence of sustainability, including appropriate letters of support included in the appendices; and

(9) The extent to which the design of the proposed project capitalizes on the flexibilities provided in DOL's new apprenticeship regulations and utilizes cutting edge strategies to promote inclusive pre-apprenticeship and Registered Apprenticeship training of youth and young adults with disabilities in a high growth industry(ies).

(c) Organizational Capacity and Quality of Key Personnel (20 Points)

Applications will be evaluated based on the extent to which the applicant demonstrates organizational capacity and quality of key personnel to implement the proposed project, including:

(1) Demonstrated experience with similar projects that plan, develop, implement, and evaluate new strategies and produce replicable models for providing employment-related training to youth, including youth with disabilities;

(2) Qualifications and experience of the applicant's key personnel and consultants;

(3) Commitment to developing and sustaining work across key stakeholders;

(4) Experience and commitment of any proposed consultants or subcontractors; and

(5) Appropriateness of the organization's structure to carry out the project. (The structure and staffing of the organization align with the project's requirements, vision, and goals and are designed to assure responsible general management of the project).

(d) Budget and Resource Capacity (10 Points)

In evaluating the capacity of the applicant to carry out the proposed project, ODEP will consider the following factors:

(1) The extent to which the budget is adequate to support the proposed project; and

(2) The extent to which the anticipated costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) Quality of the Management Plan (15 Points)

In evaluating the quality of the management plan for the proposed

project, ODEP will consider the following factors:

(1) The extent to which the management plan for project implementation appears likely to achieve the objectives of the proposed project on time and within budget, and includes clearly defined staff responsibilities, time allocation to project activities, time lines, milestones for accomplishing project tasks, project deliverables and information on adequacy of other resources necessary for project implementation;

(2) The extent to which the management plan appears likely to result in sustainable activities beyond the period of direct Federal investment;

(3) The adequacy of mechanisms for ensuring high-quality products and services relating to the scope of work for the proposed project; and

(4) The extent to which the time commitments of the project director and/or principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(f) Quality of the Project Evaluation (20 Points)

In evaluating the quality of the project's evaluation design, the Department will consider the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, context, and outcomes of the proposed project;

(2) The extent to which the design of the evaluation includes the use of objective performance measures and methods that will clearly document the project's intended outputs and outcomes and will produce measurable quantitative and qualitative data;

(3) The extent to which the evaluation will provide Federal, State and local government entities with useful information about transition and systems change models suitable for replication or testing in other settings; and

(4) The extent to which the methods of evaluation provide measures that will inform ODEP's annual performance goals and measures and ODEP's long-term strategic goals.

2. Review and Selection Process

Proposals that are timely and responsive to the requirements of this SGA will be rated against the criteria listed above by an independent panel comprised of representatives from DOL and other peers. The ranked scores will serve as the primary basis for selection of applications for funding, in

conjunction with other factors such as urban, rural, and geographic balance; the availability of funds; and which proposals are most advantageous to the Government. The panel results are advisory in nature and not binding on the Grant Officer, and the Grant Officer may consider any information that comes to his/her attention. The Department may elect to award the grant(s) with or without discussions with the applicants.

Should a grant be awarded without discussions, the award will be based on the applicant's signature on the SF- 424, which constitutes a binding offer by the applicant (including electronic signature via E-Authentication on <http://www.grants.gov>).

3. Anticipated Announcement and Award Dates

The anticipated date of announcement and award is September 29, 2009.

VI. Award Administration Information

1. Award Notices

All award notifications will be posted on the ODEP homepage at <http://www.dol.gov/odep/> and the OA Web site <http://www.doleta.gov/oa>. Applicants selected for award will be contacted directly before the grant's execution. The notice of award signed by the Grants Officer will serve as the authorizing document. Applicants not selected for award will be notified by mail.

2. Administrative and National Policy Requirements—Administrative Program Requirements

All grantees, including faith-based organizations, will be subject to all applicable Federal laws (including provisions of appropriation laws), regulations, and the applicable OMB Circulars. The grant(s) awarded under this SGA must comply with all provisions of this solicitation and will be subject to the following statutory and administrative standards and provisions, as applicable to the particular grantee:

- 20 Code of Federal Regulations (CFR) 667.220, administrative costs;
- Non-Profit Organizations—OMB Circular A-122 (cost principles) and 29 CFR part 95 (administrative requirements); Educational Institutions—OMB Circular A-21 (cost principles) and 29 CFR part 95 (administrative requirements);
- State, local and Indian Tribal—OMB Circular A-87 (cost principles) and 29 CFR part 97 (administrative requirements);

- All entities must comply with 29 CFR parts 93 and 98 and, where applicable, 29 CFR parts 96 and 99;
- In accordance with Section 18 of the Lobbying Disclosure Act of 1995, Public Law 104-65 (2 U.S.C. 1611), non-profit entities incorporated under Internal Revenue Service Code section 501(c)(4) that engage in lobbying activities are not eligible to receive Federal funds and grants;
- 29 CFR part 2, subpart D—Equal Treatment in Department of Labor Programs for Religious Organizations; Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries;
- 29 CFR part 30—Equal Employment Opportunity in Registered Apprenticeship and Training;
- 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964; 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance;
- 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor;
- 29 CFR part 35—Nondiscrimination on the Basis of Age in Program or Activities Receiving Federal Financial Assistance from the Department of Labor;
- 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Program or Activities Receiving Federal Financial Assistance;
- 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998 (WIA);
- 29 CFR part 1926, Safety and Health Regulations for Construction of the Occupational Safety and Health Act (OSHA); and
- 29 CFR part 570, Child Labor Regulations, Orders and Statements of Interpretation of the Employment Standard Administration's Child Labor Provisions.

Note: Except as specifically provided in this Notice, DOL/ODEP's acceptance of proposal and award of Federal funds to sponsor any program(s) do not provide a waiver of any grant requirements and/or procedures. For example, OMB Circulars require that an entity's procurement procedures must ensure that all procurement transactions are conducted, as much as practical, to provide open and free competition. If a proposal identifies a specific entity to provide services, the DOL/ODEP award does not provide the justification or basis to sole source the procurement, *i.e.*, avoid competition, unless

the activity is regarded as the primary work of an official partner to the application.

3. Travel

Any travel undertaken in performance of this cooperative agreement shall be subject to and in strict accordance with Federal travel regulations.

4. Acknowledgement of DOL Funding

Printed Materials: In all circumstances, the following shall be displayed on printed materials prepared by the grantee under the cooperative agreement: "Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate Grant number]."

All printed materials must also include the following notice: "This document does not necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government."

Public reference to grant: When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds must clearly state:

(1) The percentage of the total costs of the program or project, which will be financed with Federal money;

(2) The dollar amount of Federal financial assistance for the project or program; and

(3) The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Use of DOL and ODEP Logo: In consultation with DOL/ODEP, the grantee must acknowledge DOL's role as described. The DOL and/or ODEP logo may be applied to DOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The grantee must consult with DOL on whether the logo may be used on any such items prior to final draft or final preparation for distribution. In no event shall the DOL and/or ODEP logo be placed on any item until DOL has given the grantee written permission to use the logo on the item.

5. Intellectual Property

Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for Federal purposes: (i) The

copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant; and (ii) any right to copyright to which the grantee, subgrantee or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. Federal funds may not be used to pay any royalty or licensing fee associated with such copyrighted material, although they may be used to pay costs for obtaining a copy which is limited to the developer/seller costs of copying and shipping.

If revenues are generated through selling products developed with grant funds, including intellectual property, these revenues are program income. Program income is added to the grant and must be expended for allowable grant activities.

6. Approval of Key Personnel and Subcontractors

The recipient shall notify the Grant Officer at least fourteen (14) calendar days in advance if any key personnel are to be removed or diverted from the cooperative agreement, shall supply written justification as part of this notice as to why these persons are to be removed or diverted, shall provide the names(s) of the proposed substitute or replacement, and shall include information on each new individual's qualifications such as education and work experience.

7. Reporting and Accountability

The Registered Apprenticeship grants will be subject to performance measures based upon project focus. ODEP is responsible for ensuring effective implementation of this cooperative agreement, in accordance with the provisions of this announcement and the terms of the cooperative agreement award document.

Applicants should assume that ODEP staff will conduct on-site project reviews periodically. Reviews will focus on timely project implementation, performance in meeting the cooperative agreement's objectives, tasks and responsibilities, expenditures of cooperative agreement funds on allowable activities, and administration of project activities. Projects may be subject to other additional reviews, at the discretion of the ODEP.

The selected applicant must submit on a quarterly basis, beginning ninety (90) days from the award of the grant,

financial and activity reports under this program as prescribed by OMB Circular A-110, codified at 2 CFR part 215 and 29 CFR part 95. Specifically the following reports will be required:

1. *Quarterly report*: The quarterly report is estimated to take five (5) hours to complete. The form for the quarterly report will be provided by ODEP. The Department will work with the grantee to help refine the requirements of the report, which, among other things, will include measures of ongoing analysis for continuous improvement. This report will be filed using an on-line reporting system. The form will be submitted within thirty (30) days of the close of the quarter.

2. *Standard Form 269, Financial Status Report Form*: This form is to be completed and submitted on a quarterly basis using the on-line electronic reporting system unless ODEP provides different instructions.

3. *Final Project Report*: The Final Project Report is to include an assessment of project performance and outcomes achieved. It is estimated that this report will take twenty (20) hours to complete. This report will be submitted in hard copy and on electronic disk using a format and following instructions, to be provided by ODEP. A draft of the final report is due to ODEP sixty (60) days before the end of the period of performance of the cooperative agreement. The final report is due to ODEP and the DOL Grants Office ten (10) days before the end of the period of performance of the cooperative agreement.

The Department will arrange for an evaluation of the outcomes, impacts, accomplishments, and benefits of each funded project. The grantee must agree to cooperate with this evaluation and must make available records on all parts of project activity, including available data on service delivery models being studied, and provide access to personnel, as specified by the evaluator(s), under the direction of ODEP. This evaluation is separate from the ongoing evaluation for continuous improvement required of the grantee for project implementation.

VII. Agency Contacts

Any questions regarding this SGA should be directed to Cassandra Mitchell, e-mail address: mitchell.cassandra@dol.gov, tel: 202-693-4570 (note that this is not a toll-free number). To obtain further information about the Office of Disability Employment Policy of the U.S. Department of Labor, visit the DOL Web site of the Office of Disability

Employment Policy at <http://www.dol.gov/odep>.

VIII. Additional Resources and Other Information

1. Resources for the Applicant

DOL maintains a number of Web based resources that may be of assistance to applicants:

- For general information about Registered Apprenticeship see <http://www.doleta.gov/OA/>.
- For information about DOL's new Apprenticeship Regulations see <http://www.doleta.gov/OA/regulations.cfm>.
- For a basic understanding of the grants process and basic responsibilities of receiving Federal grant support, please see "Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government" (<http://www.whitehouse.gov/government/fbci/guidance/index.html>).

2. Other Information

OMB Information Collection No.: 1225-0086, Expires: September 30, 2009. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average twenty (20) hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimated or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, the OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503. Please do not return your completed application to the OMB. Send it to the sponsoring agency as specified in this solicitation. This information is being collected for the purpose of awarding a grant. The information collected through this "Solicitation for Grant Applications" will be used by the Department of Labor to ensure that grants are awarded to the applicant best suited to perform the functions of the grant. Submission of this information is required in order for the applicant to be considered for award of this grant. Unless otherwise specifically noted in this announcement, information submitted in the respondent's application is not considered to be confidential.

Appendices: (Located on U.S. Department of Labor, Office of Disability

Employment Policy Web page <http://www.dol.gov/odep> follow link for the applicable SGA.)

- Appendix A: Application for Federal Assistance SF-424
- Appendix B: Budget Information Sheet SF-424A
- Appendix C: Assurances and Certifications Signature Page
- Appendix D: Survey on Ensuring Equal Opportunity for Applicants
- Appendix E: Indirect Charges or Certificate of Direct Costs

Signed at Washington, DC, this 10th day of June 2009.

Cassandra Mitchell,

Grant Officer.

[FR Doc. E9-14076 Filed 6-15-09; 8:45 am]

BILLING CODE 4510-FT-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09-054)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: June 16, 2009.

FOR FURTHER INFORMATION CONTACT: Linda B. Blackburn, Patent Counsel, Langley Research Center, Mail Code 141, Hampton, VA 23681-2199; telephone (757) 864-3221; fax (757) 864-9190.

NASA Case No. LAR-17384-1: Advanced Modified High Performance Synthetic Jet Actuator with Curved Chamber;

NASA Case No. LAR-17390-1: Advanced High Performance Horizontal Piezoelectric Hybrid Synthetic Jet Actuator;

NASA Case No. LAR-17416-1: Integrated Universal Chemical Detector with Selective Diffraction Array;

NASA Case No. LAR-17112-2: Multilayer Electroactive Polymer Composite Material;

NASA Case No. LAR-17547-1: Multiple-Wavelength Tunable Laser;

NASA Case No. LAR-17154-2: Sol-Gel Based Oxidation Catalyst and Coating System Using Same;

NASA Case No. LAR-17736-1: Controlled Deposition and Alignment of Carbon Nanotubes;

NASA Case No. LAR-17629-1:
Method and Apparatus for Shape and End Position Determination Using an Optical Fiber;

NASA Case No. LAR-17382-1:
Advanced High Performance Vertical Hybrid Synthetic Jet Actuator;

NASA Case No. LAR-17759-1:
Multilayer Electroactive Polymer Composite Material.

Dated: June 10, 2009.

Richard W. Sherman,

Deputy General Counsel.

[FR Doc. E9-14052 Filed 6-15-09; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09-052)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: June 16, 2009.

FOR FURTHER INFORMATION CONTACT: Bryan A. Geurts, Patent Counsel, Goddard Space Flight Center, Mail Code 140.1, Greenbelt, MD 20771-0001; telephone (301) 286-7351; fax (301) 286-9502.

NASA Case No. GSC-15421-1: Spring Joint with Overstrain Sensor;

NASA Case No. GSC-15557-1: System and Method for Embedding Emotion in Logic Systems;

NASA Case No. GSC-15458-1: System and Method for Transferring Telemetry Data Between a Ground Station and a Control Center;

NASA Case No. GSC-15001-1: Apparatus and Method for a Light Direction Sensor.

Dated: June 10, 2009.

Richard W. Sherman,

Deputy General Counsel.

[FR Doc. E9-14055 Filed 6-15-09; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09-051)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: June 16, 2009.

FOR FURTHER INFORMATION CONTACT: Kaprice L. Harris, Attorney Advisor, Glenn Research Center at Lewis Field, Code 500-118, Cleveland, OH 44135; telephone (216) 433-5754; fax (216) 433-6790.

NASA Case No. LEW-18325-1: External Magnetic Field Reduction Technique for Advanced Stirling Radioisotope Generator.

Dated: June 10, 2009.

Richard W. Sherman,

Deputy General Counsel.

[FR Doc. E9-14056 Filed 6-15-09; 8:45 am]

BILLING CODE: P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09-053)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark office, and are available for licensing.

DATES: June 16, 2009.

FOR FURTHER INFORMATION CONTACT: Edward K. Fein, Patent Counsel, Johnson Space Center, Mail Code AL, 2101 NASA Parkway, Houston, TX 77058, (281) 483-4871; (281) 483-6936 [Facsimile].

NASA Case No. MSC-24184-2: Ultrawideband Asynchronous Tracking System and Method;

NASA Case No. MSC-24466-1: Battery System and Method for Sensing and Balancing the Charge State of Battery Cells;

NASA Case No. MSC-23997-2: Magnetic Capture Docking Mechanism;
NASA Case No. MSC-24149-1: Method and Apparatus for an Inflatable Shell.

Dated: June 10, 2009.

Richard W. Sherman,

Deputy General Counsel.

[FR Doc. E9-14053 Filed 6-15-09; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09-050)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: June 16, 2009.

FOR FURTHER INFORMATION CONTACT: Robert M. Padilla, Patent Counsel, Ames Research Center, Code 202A-4, Moffett Field, CA 94035-1000; telephone (650) 604-5104; fax (650) 604-2767.

NASA Case No. ARC-16298-1: Nanotechnology-Based Supercapacitor.

Dated: June 10, 2009.

Richard W. Sherman,

Deputy General Counsel.

[FR Doc. E9-14058 Filed 6-15-09; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09-049)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: June 16, 2009.

FOR FURTHER INFORMATION CONTACT: James J. McGroary, Patent Counsel, Marshall Space Flight Center, Mail Code

LS01, Huntsville, AL 35812; telephone (256) 544-0013; fax (256) 544-0258.

NASA Case No. MFS-32342-1-CIP:
Nuclear Fuel Element Using
Curvilinearly Grooved Fuel Rings;

NASA Case No. MFS-32733-1:
Unbalanced-Flow, Fluid-Mixing Plug
with Metering Capabilities;

NASA Case No. MFS-32748-1: Flow
Plug with Length-to-Hole Size
Uniformity for Use in Flow
Conditioning and Flow Metering;

NASA Case No. MFS-32651-1:
Orientation Control Method and System
for Object in Motion.

Dated: June 10, 2009.

Richard W. Sherman,
Deputy General Counsel.

[FR Doc. E9-14059 Filed 6-15-09; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC-2009-0234]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 21, 2009, to June 3, 2009. The last biweekly notice was published on June 2, 2009 (74 FR 26428).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation

of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, TWB-05-B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the

subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of

which the petitioner is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the

petitioner/requestor must contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC

electronic filing Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The electronic filing Help Desk can be contacted by telephone at 1-866-672-7640 or by e-mail at MSHD.Resource@nrc.gov.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First-class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as Social Security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397-4209, (301) 415-4737 or by e-mail to pdr.resource@nrc.gov.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: April 15, 2009.

Description of amendment request: The proposed amendment would incorporate the use of alternate methodologies for the calculation of reactor pressure vessel beltline weld initial reference temperatures, the calculation of the adjusted reference temperatures (ARTs), the development of the reactor pressure vessel pressure-temperature (P-T) limit curves, and the low temperature reactor coolant system (RCS) overpressure analysis into Technical Specification (TS) 5.6.4. The amendment would also revise the analysis requirement for the low temperature RCS overpressure events from 21 to 32 Effective Full Power Years (EFPY) contained in Operating License (OL) Condition 2.C(3)(d).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The amendment request proposes two changes to the TS/OL. The first change incorporates the use of alternative methodologies to develop the [Davis-Besse Nuclear Power Station, Unit No. 1] DBNPS P-T limit curves and [low temperature over pressure] LTOP limits into TS 5.6.4 to augment the existing listed methodology of BAW-10046A, Revision 2. The second change revises OL Condition 2.C(3)(d) to reflect the revised LTOP analysis is valid to 32 EFPY.

The first change incorporates the use of Topical Report BAW-2308, Revisions 1-A

and 2-A; modified ORNL/TM 2006/530 equations, and ASME Code Cases N-588 and N-640. The topical report and ASME code cases have been approved or accepted for use by the [Nuclear Regulatory Commission] NRC (provided that any conditions/limitations are satisfied). The modified ORNL/TM 2006/530 equations result in a more conservative ART value for the limiting reactor vessel component. The proposed additions to the methodologies for the reactor vessel P-T curve development provide an acceptable means of satisfying the requirements of 10 CFR 50, Appendix G. The proposed additions do not alter the design or function of any plant equipment. Therefore, the proposed additions do not affect the probability or consequences of any previously evaluated accidents, including reactor coolant pressure boundary failures.

The second change is considered administrative in nature and reflects the revised methodologies. It will not alter the design or operation of any plant equipment. Therefore, the proposed change does not affect the probability or consequences of any previously evaluated accidents.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The amendment request proposes two changes to the TS/OL. The first change incorporates the use of alternative methodologies to develop the DBNPS P-T limit curves and LTOP limits into TS 5.6.4 to augment the existing listed methodology of BAW-10046A, Revision 2. The second change revises OL Condition 2.C(3)(d) to reflect that the revised analysis is valid to 32 EFPY.

The first change incorporates methodologies that either have been approved or accepted for use by the NRC (provided that any conditions/limitations are satisfied), or are conservative to current methodologies. The changes do not alter the design or function of any plant equipment. The P-T limit curves and LTOP limits will provide the same level of protection to the reactor coolant boundary as was previously evaluated. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The second change is considered administrative in nature and reflects the revised methodologies. It will not alter the design or operation of any plant equipment. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The amendment request proposes two changes to the TS/OL. The first change incorporates the use of alternative methodologies to develop the DBNPS P-T limit curves and LTOP limits into TS 5.6.4 to augment the existing listed methodology of BAW-10046A, Revision 2. The second change revises OL Condition 2.C(3)(d) to reflect that the revised analysis is valid to 32 EFPY.

The first change incorporates methodologies that either have been approved or accepted for use by the NRC (provided that any conditions/limitations are satisfied), or are conservative to current methodologies. The second change is considered administrative in nature and reflects the revised methodologies. The changes do not alter the design or function of any plant equipment. The P-T limit curves and LTOP limits will provide the same level of protection to the reactor coolant boundary as was previously evaluated. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Attorney, FirstEnergy Corporation, Mail Stop A-GO-15, 76 South Main Street, Akron, OH 44308.
NRC Branch Chief: Russell Gibbs.

Nine Mile Point Nuclear Station, LLC, (NMPNS) Docket No. 50-410, Nine Mile Point Nuclear Station Unit No. 2 (NMP 2), Oswego County, New York

Date of amendment request: March 30, 2009.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) 3.8.1, "AC Sources—Operating," by revising certain Surveillance Requirements (SRs) pertaining to the Division 3 emergency diesel generator (DG). The Division 3 DG is an independent source of onsite alternating current (AC) power dedicated to the high-pressure core spray (HPCS) system. The TSs currently prohibit performing the DG testing required by certain SRs in either Modes 1 or 2 or in Modes 1, 2, or 3. The proposed amendment would also remove these mode restrictions and allow certain SRs to be performed in any operating Mode for the Division 3 DG.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Division 3 (HPCS) DG and its associated emergency loads are accident mitigating features, not accident initiators. Therefore, the proposed TS changes to allow

the performance of Division 3 DG surveillance testing in any plant operating mode will not significantly impact the probability of any previously evaluated accident.

The design of plant equipment is not being modified by the proposed changes. As such, the ability of the Division 3 DG to respond to a design basis accident will not be adversely impacted by the proposed changes. The proposed changes to the TS surveillance testing requirements for the Division 3 DG do not affect the operability requirements for the DG, as verification of such operability will continue to be performed as required. Continued verification of operability supports the capability of the Division 3 DG to perform its required function of providing emergency power to HPCS system equipment, consistent with the plant safety analyses. Limiting testing to only one DG at a time ensures that design basis requirements are met. Should a fault occur while testing the Division 3 DG, there would be no significant impact on any accident consequences since the other two divisional DGs and associated emergency loads would be available to provide the minimum safety functions necessary to shut down the unit and maintain it in a safe shutdown condition.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No changes are being made to the plant that would introduce any new accident causal mechanism. Equipment will be operated in the same configuration with the exception of the plant operating mode in which the Division 3 DG surveillance testing is conducted. Performance of these surveillances tests while online will continue to verify operability of the Division 3 DG. The proposed amendment does not impact any plant systems that are accident initiators and does not adversely impact any accident mitigating systems.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is related to confidence in the ability of the fission product barriers (fuel cladding, reactor coolant system, and primary containment) to perform their design functions during and following postulated accidents. The proposed changes to the TS surveillance testing requirements for the Division 3 DG do not affect the operability requirements for the DG, as verification of such operability will continue to be performed as required. Continued verification of operability supports the capability of the Division 3 DG to perform its required function of providing emergency power to HPCS system equipment, consistent with the plant safety analyses. Consequently, the performance of the fission product

barriers will not be adversely impacted by implementation of the proposed amendment. In addition, the proposed changes do not alter setpoints or limits established or assumed by the accident analysis.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1700 K Street, NW., Washington, DC 20006.

NRC Acting Branch Chief: Douglas V. Pickett.

Northern States Power Company—Minnesota, Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2 (PINGP), Goodhue County, Minnesota

Date of amendment request: April 15, 2009.

Description of amendment request: The proposed amendments would delete those portions of the Technical Specifications (TSs) superseded by 10 CFR part 26, subpart I. The proposed change is consistent with Nuclear Regulatory Commission (NRC)-approved Technical Specification Task Force (TSTF) Improved Standard TS Change Traveler, TSTF-511, "Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26," Revision 0. The availability of this TS improvement was announced in the **Federal Register** (FR) on December 30, 2008 (73 FR 79923) as part of the consolidated line item improvement process. The licensee concluded that the no significant hazards consideration determination as presented in the FR notice is applicable to MNGP and PINGP.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1: The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours

for personnel who perform safety-related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR part 26. Removal of the Technical Specification requirements will be performed concurrently with the implementation of the 10 CFR part 26, Subpart I, requirements. The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. Worker fatigue is not an initiator of any accident previously evaluated. Worker fatigue is not an assumption in the consequence mitigation of any accident previously evaluated. Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety-related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. Working hours will continue to be controlled in accordance with NRC requirements. The new rule allows for deviations from controls to mitigate or prevent a condition adverse to safety or as necessary to maintain the security of the facility. This ensures that the new rule will not unnecessarily restrict working hours and thereby create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or [affect] the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any [accident] previously evaluated.

Criterion 3: The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change removes Technical Specification restrictions on working hours for personnel who perform safety-related functions. The Technical Specification restrictions are superseded by the worker fatigue requirements in 10 CFR Part 26. The proposed change does not involve any physical changes to [the plants] or alter the manner in which plant systems are operated, maintained, modified, tested, or inspected. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to

safely shutdown the plants and to maintain the plants in a safe shutdown condition.

Removal of plant-specific Technical Specification administrative requirements will not reduce a margin of safety because the requirements in 10 CFR part 26 are adequate to ensure that worker fatigue is managed.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis adopted by the licensee and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: Lois M. James.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment request: May 5, 2009.

Description of amendment request: The proposed amendments would delete those portions of Technical Specifications (TS) superseded by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, Subpart I, consistent with the U.S. Nuclear Regulatory Commission (NRC)-approved Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler, TSTF-511, Revision 0, "Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26."

The NRC staff issued a "Notice of Availability of Model Safety Evaluation, Model No Significant Hazards Determination, and Model Application for Licensees That Wish to Adopt TSTF-511, Revision 0, 'Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26,'" in the **Federal Register** on December 30, 2008 (73 FR 79923). The notice included a model safety evaluation, a model no significant hazards consideration (NSHC) determination, and a model license amendment request. In its application dated May 5, 2009, the licensee affirmed the applicability of the model NSHC determination.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

Criterion 1: The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change removes TS restrictions on working hours for personnel who perform safety-related functions. The TS restrictions are superseded by the worker fatigue requirements in 10 CFR part 26. Removal of the TS requirements will be performed concurrently with the implementation of the 10 CFR part 26, subpart I, requirements. The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. Worker fatigue is not an initiator of any accident previously evaluated. Worker fatigue is not an assumption in the consequence mitigation of any accident previously evaluated.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change removes TS restrictions on working hours for personnel who perform safety-related functions. The TS restrictions are superseded by the worker fatigue requirements in 10 CFR part 26. Working hours will continue to be controlled in accordance with NRC requirements. The new rule allows for deviations from controls to mitigate or prevent a condition adverse to safety or as necessary to maintain the security of the facility. This ensures that the new rule will not unnecessarily restrict working hours and thereby create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3: The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change removes TS restrictions on working hours for personnel who perform safety-related functions. The TS restrictions are superseded by the worker fatigue requirements in 10 CFR part 26. The proposed change does not involve any physical changes to plant or alter the manner in which plant systems are operated, maintained, modified, tested, or inspected. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for

operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition.

Removal of plant-specific TS administrative requirements will not reduce a margin of safety because the requirements in 10 CFR part 26 are adequate to ensure that worker fatigue is managed.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Jennifer Post, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Branch Chief: Michael T. Markley.

STP Nuclear Operating Company, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: March 3, 2009.

Description of amendment request: The proposed amendments would delete those portions of Technical Specifications (TS) superseded by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, Subpart I, consistent with the U.S. Nuclear Regulatory Commission (NRC)-approved Technical Specification Task Force (TSTF) Improved Technical Specification Change Traveler, TSTF-511, Revision 0, "Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26." In its application dated March 3, 2009, the licensee proposed one variation to the model application, a change to the applicable TS section from TS 5.2.2 to TS 6.2.2.

The NRC staff issued a "Notice of Availability of Model Safety Evaluation, Model No Significant Hazards Determination, and Model Application for Licensees That Wish to Adopt TSTF-511, Revision 0, 'Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26,'" in the **Federal Register** on December 30, 2008 (73 FR 79923). The notice included a model safety evaluation, a model no significant hazards consideration (NSHC) determination, and a model license amendment request. In its application

dated March 3, 2009, the licensee affirmed the applicability of the model NSHC determination, which is presented below.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of NSHC adopted by the licensee, is presented below:

Criterion 1: The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change removes TS restrictions on working hours for personnel who perform safety related functions. The TS restrictions are superseded by the worker fatigue requirements in 10 CFR part 26. Removal of the TS requirements will be performed concurrently with the implementation of the 10 CFR part 26, subpart I, requirements. The proposed change does not impact the physical configuration or function of plant structures, systems, or components (SSCs) or the manner in which SSCs are operated, maintained, modified, tested, or inspected. Worker fatigue is not an initiator of any accident previously evaluated. Worker fatigue is not an assumption in the consequence mitigation of any accident previously evaluated.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2: The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated

The proposed change removes TS restrictions on working hours for personnel who perform safety related functions. The TS restrictions are superseded by the worker fatigue requirements in 10 CFR part 26. Working hours will continue to be controlled in accordance with NRC requirements. The new rule allows for deviations from controls to mitigate or prevent a condition adverse to safety or as necessary to maintain the security of the facility. This ensures that the new rule will not unnecessarily restrict working hours and thereby create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or effect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3: The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change removes TS restrictions on working hours for personnel who perform safety related functions. The TS restrictions are superseded by the worker

fatigue requirements in 10 CFR part 26. The proposed change does not involve any physical changes to plant or alter the manner in which plant systems are operated, maintained, modified, tested, or inspected. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition.

Removal of plant-specific TS administrative requirements will not reduce a margin of safety because the requirements in 10 CFR part 26 are adequate to ensure that worker fatigue is managed.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: A. H. Gutterman, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Branch Chief: Michael T. Markley.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 21, 2009 (TSC 07-05).

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) and upgrade the Emergency Core Cooling System (ECCS) requirements to be more consistent with NUREG-1431, Revision 3, "Standard Technical Specifications—Westinghouse Plants." The upgrade revises Sequoyah Nuclear Plant, Units 1 and 2 TS Section 3/4.5.2, "ECCS Subsystems— T_{avg} Greater Than or Equal to 350 °F," TS Section 3/4.5.3, "ECCS Subsystems— T_{avg} Less Than 350 °F," and the corresponding surveillance requirements (SRs) that will resolve a non-confirming condition associated with SR 4.5.2.f.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the

probability or consequences of an accident previously evaluated.

TVA's proposed change is not considered to be a significant departure from the current requirements and is considered an upgrade for Sequoyah Nuclear Plant's (SQN's) emergency core cooling system (ECCS) technical specification (TS) requirements. The ECCS is qualified and designed to provide core cooling and negative reactivity to ensure the reactor core is protected in the event of a loss of coolant accident (LOCA), rod ejection accident, loss of secondary coolant accident, and steam generator tube rupture (SGTR). The proposed change does not alter qualification or design features associated with SQN's ECCS. The probability of occurrence of an accident is not increased as the changes do not affect the system's capability for performing ECCS operation during injection, cold leg recirculation, and hot leg recirculation. The proposed changes continue to ensure that SQN's ECCS satisfies 10 CFR 50.46 and 10 CFR 50, Appendix A requirements. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The possibility for a new or different kind of accident from any accident previously evaluated does not exist as a result of the proposed changes. The upgrade of SQN TSs to industry Improved Standard TS (ISTS) requirements provide an overall improvement and ensures that SQN's ECCS is capable of performing the design functions under accident conditions. The system design associated with injection, cold leg recirculation, and hot leg recirculation, remain unchanged. Accordingly, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed upgrade of SQN's ECCS TSs to the ISTS does not affect existing safety margins. The system requirements continue to require that ECCS components are operable for plant operation (Modes 1, 2, and 3) and during plant shutdown (Mode 4). In addition, the proposed change does not increase the risk for an accident because no physical changes to the plant are being made and design features associated with ECCS continue to satisfy 10 CFR 50.46 requirements. Accordingly, TVA concludes that the margin of safety has not been reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority,

400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Branch Chief: Thomas H. Boyce.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397-4209, (301) 415-4737 or by e-mail to pdr.resource@nrc.gov.

Dominion Energy Kewaunee, Inc. Docket No. 50-305, Kewaunee Power Station (KPS), Kewaunee County, Wisconsin

Date of amendment request: August 14, 2008.

Description of amendment request: The amendment changed Section 4.4.f.1 of the Technical Specifications to require verification that the 36-inch containment purge and vent isolation valves are sealed closed when the reactor is at greater than Cold Shutdown Conditions. The previous Section 4.4.f.1 required such verification when the reactor is critical.

Date of issuance: June 1, 2009.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 206.

Facility Operating License No. DPR-43: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 9, 2008 (73 FR 52414).

The Commission's related evaluation of the amendment is contained in a safety evaluation dated June 1, 2009.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., Counsel for Dominion Energy Kewaunee, Inc., 120 Tredegar Street, Richmond, VA 23219.

NRC Branch Chief: Lois M. James.

Entergy Nuclear Operations, Inc., Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: July 30, 2008, as supplemented February 2 and May 7, 2009.

Brief description of amendment: The amendment revises the Technical Specifications (TSs) by allowing a one-time extension to TS 3.8.1, Required Action A.4, to support replacement of a cooling oil pump on the station auxiliary transformer. Specifically, the Completion Time to restore operability of the offsite circuit associated with the station auxiliary transformer would be extended from 72 hours to 144 hours.

Date of issuance: May 27, 2009.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 260.

Facility Operating License No. DPR-26: The amendment revised the License and the Technical Specifications.

Date of initial notice in Federal Register: August 27, 2008 (73 FR 50649)

The February 2 and May 7, 2009, supplements provided additional information that clarified the

application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 27, 2009.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: September 18, 2008, as supplemented by letter dated February 26, 2009.

Brief description of amendment: The amendment revised Action Statements 'a' and 'b' of Technical Specification 3/4.9.6, "Refueling Machine," to clarify acceptability of placing a suspended fuel assembly or control element assembly within the reactor vessel in a safe condition while restoring the refueling machine operability.

Date of issuance: June 4, 2009.

Effective date: As of the date of issuance and shall be implemented prior to the start of the fall 2009 refueling outage (RF16) fuel movement.

Amendment No.: 220.

Facility Operating License No. NPF-38: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in Federal Register: December 30, 2008 (73 FR 79931). The supplemental letter dated February 26, 2009, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 4, 2009.

No significant hazards consideration comments received: No.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: August 28, 2008, supplemented by letter dated January 19, 2009.

Brief description of amendment: The amendment revises the Crystal River Unit 3 (CR-3) Improved Technical Specifications to implement the Technical Specifications Task Force Standard Technical Specification Change Traveler 449, Revision 4 inspection requirements for the

replacement once through steam generators (OTSGs) that are being installed during the CR-3 fall 2009 refueling outage. The replacement OTSGs differ from the existing OTSGs in that the tube material is Alloy 690 thermally treated in the replacements versus Alloy 600 in the existing OTSGs. Additionally, this amendment removes inspection requirements that are designated for specific damage conditions in the existing OTSGs, remove tube repair techniques approved by the license amendment No. 233, dated May 16, 2007, for the existing OTSGs, and remove inspection and reporting requirements specific to those repair techniques.

Date of issuance: May 29, 2009.

Effective date: Date of issuance, to be implemented upon startup from Refueling Outage R16.

Amendment No.: 234.

Facility Operating License No. DPR-72: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: February 24, 2009 (74 FR 8284). The supplemental letter was included in the initial proposed no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 29, 2009.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: February 12, 2009.

Brief description of amendments: The amendments deleted those portions of Technical Specifications (TSs) superseded by Title 10 of the *Code of Federal Regulations* (10 CFR), Part 26, Subpart I. This change is consistent with Nuclear Regulatory Commission approved Technical Specification Task Force (TSTF) Improved Standard Technical Specification Change Traveler TSTF-511, Revision 0, "Eliminate Working Hour Restrictions from TS 5.2.2 to Support Compliance with 10 CFR Part 26."

Date of Issuance: May 27, 2009.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 208 and 156.

Renewed Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the TSs.

Date of initial notice in Federal Register: March 24, 2009 (74 FR 12393).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 27, 2009.

No significant hazards consideration comments received: No.

FPL Energy Duane Arnold, LLC, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: May 30, 2008, as supplemented by letters dated July 17, 2008, September 10, 2008, and February 27, 2009.

Brief description of amendment: The proposed amendment would revise Technical Specifications (TS) Table 3.3.8.1-1, "Loss of Power Instrumentation," specifically to change the maximum allowable voltage of the 4.16-kV Emergency Bus Undervoltage function from less-than-or-equal-to 3899 V to less-than-or-equal-to 3822 V.

Date of issuance: May 15, 2009.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 273.

Facility Operating License No. DPR-49: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 21, 2008 (73 FR 62565). The supplements dated July 17, 2008, September 10, 2008, and February 27, 2009 provided additional information that clarified the application, did not expand the scope of the application, and did not change the Commission's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 15, 2009.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket Nos. 50-354, 50-272 and 50-311, Hope Creek Generating Station and Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: January 5, 2009.

Brief description of amendments: The amendments eliminate unnecessary reporting requirements in the Facility Operating Licenses (FOLs) and Technical Specifications (TSs). Specifically, the amendments delete: (1) Section 2.F of the FOL for Hope Creek Generating Station; (2) Section 2.I of the FOL for Salem Nuclear Generating Station, Unit No. 2; and (3) Technical Specification (TS) 6.9.3 for all three units. A notice of availability for this FOL and TS improvement using the consolidated line item improvement process was published by the Nuclear Regulatory Commission in the **Federal**

Register on November 4, 2005 (70 FR 67202).

Date of issuance: June 2, 2009.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment Nos.: 178, 291 and 275.

Facility Operating License Nos. NPF-57, DPR-70 and DPR-75: The amendments revised the TSs and the Licenses.

Date of initial notice in Federal Register: February 24, 2009 (74 FR 8287).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 2, 2009.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendments: October 30, 2008, as supplemented by a letter dated November 20, 2008.

Description of amendment request: The amendments (1) revised the frequency of Surveillance Requirement (SR) 3.1.3.2, notch testing of fully withdrawn control rod, from "7 days after the control rod is withdrawn and THERMAL POWER is greater than the LPSP [lower-power set-point] of RWM [rod worth minimizer]" to "31 days after the control rod is withdrawn and THERMAL POWER is greater than the LPSP of the RWM" and (2) revises Example 1.4-3 in Section 1.4 "Frequency" to clarify that the 1.25 surveillance test interval extension in SR 3.0.2 is applicable to time periods discussed in NOTES in the "SURVEILLANCE" column in addition to the time periods in the "FREQUENCY" column.

Date of issuance: May 29, 2009.

Effective date: Date of issuance, to be implemented within 30 days.

Amendment Nos.: 274, 301, and 260.

Renewed Facility Operating License Nos. DPR-33, DPR-52, and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 24, 2009 (74 FR 8288).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 29, 2009.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 5th day of June 2009.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

*Director, Division of Operating Reactor
Licensing, Office of Nuclear Reactor
Regulation.*

[FR Doc. E9-13999 Filed 6-15-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2009-0214]

Notice of Availability and Opportunity for Comment on Interim Staff Guidance Regarding the Review of Research and Test Reactor License Renewal Applications

AGENCY: Nuclear Regulatory
Commission.

ACTION: Notice of Opportunity to
Comment on Interim Staff Guidance
(ISG) Regarding the Review of Research
and Test Reactor License Renewal
Applications.

DATES: Interested parties are invited to
submit comments on this interim staff
guidance by July 16, 2009. Comments
received after this date will be
considered if practicable to do so, but
only those comments received on or
before the due date can be assured
consideration.

FOR FURTHER INFORMATION CONTACT:
Alexander Adams Jr., Division of Policy
and Rulemaking, Office of Nuclear
Reactor Regulation, U.S. Nuclear
Regulatory Commission, Washington,
DC 20555-0001, telephone (301) 415-
1127, e-mail alexander.adams@nrc.gov;
or Marcus Voth, Division of Policy and
Rulemaking, Office of Nuclear Reactor
Regulation, U.S. Nuclear Regulatory
Commission, Washington, DC 20555-
0001, telephone (301) 415-1210, e-mail
marcus.voth@nrc.gov.

ADDRESSES: 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> and search
on the Docket ID for this action: NRC-
2009-0214.

Mail or fax 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 (Fax number: (301)
492-3446).

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

Federal e-Rulemaking Portal:
Documents related to this notice,
including public comments, are
accessible at [http://
www.regulations.gov](http://www.regulations.gov), by searching on
docket ID: NRC-2009-0214.

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](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,
301-415-4737, or by e-mail to
pdr.resource@nrc.gov. The document,
"Interim Staff Guidance on Streamlined
Review Process for License Renewal for
Research Reactors" is available
electronically under ADAMS Accession
Number ML091420066.

SUPPLEMENTARY INFORMATION: On May
22, 2009 (74 FR 24049), the NRC
published a notice of a public meeting
(Announcement of a Proposed Process
Change Regarding the Review of
Research and Test Reactor License
Renewal Applications) to be held on
June 4, 2009, to discuss draft interim
staff guidance. That same guidance is
hereby being made available for review
and written comment.

Dated at Rockville, Maryland, this 8th day
of June 2009.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

*Chief, Research and Test Reactor Branch A,
Division of Policy and Rulemaking, Office
of Nuclear Reactor Regulation.*

[FR Doc. E9-14111 Filed 6-15-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant
License Renewal will hold a meeting on

July 7, 2009, Room T-2B3, 11545
Rockville Pike, Rockville, Maryland.

The entire meeting will be open to
public attendance.

The agenda for the subject meeting
shall be as follows:

*Tuesday, July 7, 2009—8:30 a.m.—
12 p.m.*

The Subcommittee will discuss the
Prairie Island license renewal
application and the associated Safety
Evaluation Report with Open Items. The
Subcommittee will hear presentations
by and hold discussions with
representatives of the NRC staff, Prairie
Island Nuclear Generating Plant, and
other interested persons regarding this
matter. The Subcommittee will gather
information, analyze relevant issues and
facts, and formulate proposed positions
and actions, as appropriate, for
deliberation by the full Committee.

Members of the public desiring to
provide oral statements and/or written
comments should notify the Designated
Federal Official, Mr. Christopher Brown
telephone (301) 415-7111 five days
prior to the meeting, if possible, so that
appropriate arrangements can be made.
Electronic recordings will be permitted.
Detailed procedures for the conduct of
and participation in ACRS meetings
were published in the **Federal Register**
on October 6, 2008 (73 FR 58268-
58269).

Further information regarding this
meeting can be obtained by contacting
the Designated Federal Official between
6:45 a.m. and 3:30 p.m. (ET). Persons
planning to attend this meeting are
urged to contact the above named
individual at least two working days
prior to the meeting to be advised of any
potential changes to the agenda.

Dated: June 10, 2009.

Cayetano Santos,

*Chief, Reactor Safety Branch A, Advisory
Committee on Reactor Safeguards.*

[FR Doc. E9-14112 Filed 6-15-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Future Plant Designs Subcommittee

Notice of Meeting

The ACRS Subcommittee on Future
Plant Designs will hold a meeting on
July 7, 2009, Commission Hearing
Room, 11555 Rockville Pike, Rockville,
Maryland.

The meeting will be open to public
attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, July 7, 2009—1:30 p.m.–5 p.m.

The Subcommittee will review the draft final Regulatory Guide 1.215 (DG-1204), "Guidance for ITAAC Closure under 10 CFR part 52," and the Nuclear Energy Institute (NEI) guidance document NEI 08-01, Revision 3, "Industry Guideline for the ITAAC Closure Process Under 10 CFR part 52." The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, NEI, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Girija Shukla, (Telephone: 301-415-6855) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (73 FR 58268-58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:15 a.m. and 5 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: *June 10, 2009.*

Antonio F Dias,

Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. E9-14115 Filed 6-15-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee

Notice of Meeting

The ACRS Subcommittee on Radiation Protection and Nuclear Materials will hold a meeting on July 6, 2009, Room T2-B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, July 6, 2009—1 p.m.–5 p.m.

The Subcommittee will review Template NEI-08-08, "Generic FSAR Template Guidance for Life-Cycle Minimization of Contamination," and Interim Staff Guidance (ISG) ISG-06, "Evaluation and Acceptance Criteria for 10 CFR 20.1406 to Support Design Certification and Combined License Applications." The Subcommittee will hear presentations by and hold discussions with representatives of the Nuclear Energy Institute (NEI), NRC staff and other interested persons regarding the template and the draft ISG. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Derek Widmayer, (Telephone: 301-415-7366) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008 (73 FR 58268-58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 8 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: June 9, 2009.

Antonio F. Dias,

Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. E9-14117 Filed 6-15-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on July 7, 2009, Room T2-B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal

personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, July 7, 2009, 12 p.m.–1 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Officer, Mr. Sam Duraiswamy (Telephone: 301-415-7364) between 7:30 a.m. and 4 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008, (73 FR 58268-58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Officer between 7:30 a.m. and 4 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: June 10, 2009.

Antonio F. Dias,

Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. E9-14121 Filed 6-15-09; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of June 15, 22, 29, July 6, 13, 20, 2009.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of June 15, 2009

There are no meetings scheduled for the week of June 15, 2009.

Week of June 22, 2009—Tentative

Thursday, June 25, 2009.

1:25 p.m.—Affirmation Session (Public Meeting) (Tentative)
Crow Butte Resources, Inc. (License Amendment for the North Trend Expansion Area), Staff and Applicant Appeals of LBP-08-6 and LBP-09-1, Granting Hearing and Admitting Contentions (Tentative)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

1:30 p.m.—Meeting with Advisory Committee on the Medical Uses of Isotopes (Public Meeting) (Contact: Ashley Cockerham, 240-888-7129)

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Friday, June 26, 2009.

9:30 a.m.—Discussion of Security Issues (Closed—Ex. 3)

Week of June 29, 2009—Tentative

There are no meetings scheduled for the week of June 29, 2009.

Week of July 6, 2009—Tentative

There are no meetings scheduled for the week of July 6, 2009.

Week of July 13, 2009—Tentative

There are no meetings scheduled for the week of July 13, 2009.

Week of July 20, 2009—Tentative

There are no meetings scheduled for the week of July 20, 2009.

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Rochelle Baval, (301) 415-1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/about-nrc/policy-making/schedule.html>.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. Braille, large print), please notify the NRC's Disability Program Coordinator, Rohn Brown, at 301-492-2279, TDD: 301-415-2100, or by e-mail at rohn.brown@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301-415-1969), or send an e-mail to darlene.wright@nrc.gov.

June 11, 2009.

Richard J. Laufer,

Office of the Secretary.

[FR Doc. E9-14203 Filed 6-12-09; 4:15 pm]

BILLING CODE 7590-01-P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**Senior Executive Service Performance Review Board Membership**

AGENCY: U.S. Occupational Safety and Health Review Commission.

ACTION: Annual notice.

SUMMARY: Notice is given under 5 U.S.C. 4314(c)(4) of the appointment of members to the Performance Review Board (PRB) of the Occupational Safety and Health Review Commission.

DATES: Membership is effective on June 16, 2009.

SUPPLEMENTARY INFORMATION: The Review Commission, as required by 5 U.S.C. 4314(c)(1) through (5), has established a Senior Executive Service PRB. The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations to the Chairman of the Review Commission regarding performance ratings, performance awards, and pay-for-performance adjustments. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees, pursuant to 5 U.S.C. 4314(c)(5). The names and titles of the PRB members are as follows:

- Terry T. Shelton, Associate Administrator, U.S. Department of Transportation, Federal Motor Carrier Safety Administration;
- Fran L. Leonard, Chief Financial Officer, Federal Mediation and Conciliation Service, Office of the Director;
- Cynthia G. Pierre, PhD, Enforcement Director, U.S. Department of Education, Office of Civil Rights; and
- Janice H. Brambilla, Director of Management Planning, Broadcasting Board of Governors.

FOR FURTHER INFORMATION CONTACT:

Debra A. Hall, Deputy Director of Administration, U.S. Occupational Safety and Health Review Commission,

1120 20th Street, NW., Washington, DC 20036, (202) 606-5397.

Dated: June 11, 2009.

Thomasina V. Rogers,

Chairman.

[FR Doc. E9-14138 Filed 6-15-09; 8:45 am]

BILLING CODE 7600-01-P

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS**Sunshine Act Meeting**

TIMES AND DATES: 6 p.m., Monday, June 22, 2009; 10 a.m., Tuesday, June 23, 2009; and 8 a.m., Wednesday, June 24, 2009.

PLACE: Washington, DC., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Monday, June 22 at 6 p.m. (Closed)

1. Financial Matters.
2. Strategic Issues.
3. Pricing.
4. Personnel Matters and Compensation Issues.
5. Governors' Executive Session—Discussion of prior agenda items and Board Governance.

Tuesday, June 23 at 10 a.m. (Closed)

Continuation of Monday's agenda.

Wednesday, June 24 at 8 a.m. (Closed)—If Needed

Continuation of Monday's agenda.

CONTACT PERSON FOR MORE INFORMATION:

Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260-1000. Telephone (202) 268-4800.

Julie S. Moore,

Secretary.

[FR Doc. E9-14177 Filed 6-12-09; 11:15 am]

BILLING CODE 7710-12-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11774 and #11775]

Alabama Disaster #AL-00020

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of ALABAMA dated 06/09/2009.

Incident: Severe Storms and Tornadoes.

Incident Period: 04/10/2009 through 04/13/2009.

Effective Date: 06/09/2009.

Physical Loan Application Deadline Date: 08/10/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 03/09/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Dekalb, Marshall.

Contiguous Counties:

Alabama: Blount, Cherokee, Cullman, Etowah, Jackson, Madison, Morgan. Georgia: Chattooga, Dade, Walker.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.187
Businesses With Credit Available Elsewhere	6.000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.500
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11774 C and for economic injury is 11775 0.

The States which received an EIDL Declaration # are Alabama and Georgia.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: June 9, 2009.

Karen G. Mills, Administrator.

[FR Doc. E9-14151 Filed 6-15-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11766 and #11767]

Kentucky Disaster Number KY-00022

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA-1841-DR), dated 05/29/2009.

Incident: Severe Storms, Tornadoes, Flooding, and Mudslides.

Incident Period: 05/03/2009 through 05/20/2009.

Effective Date: 06/09/2009.

Physical Loan Application Deadline Date: 07/28/2009.

EIDL Loan Application Deadline Date: 03/01/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Kentucky, dated 05/29/2009 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Magoffin. Contiguous Counties: (Economic Injury Loans Only): Kentucky: Morgan.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-14152 Filed 6-15-09; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11746 and #11747]

Mississippi Disaster Number MS-00030

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major

disaster for Public Assistance Only for the State of Mississippi (FEMA-1837-DR), dated 05/12/2009.

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 03/25/2009 through 03/28/2009.

Effective Date: 06/05/2009.

Physical Loan Application Deadline Date: 07/13/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 02/12/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Mississippi, dated 05/12/2009, is hereby amended to include the following areas as adversely affected by the disaster. Primary Counties: Jefferson Davis.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9-14153 Filed 6-15-09; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 6663]

Culturally Significant Objects Imported for Exhibition Determinations: "Watteau, Music, and Theater"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681 et seq.; 22 U.S.C. 6501 note et seq.), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Watteau, Music, and Theater," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported

pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, NY, from on or about September 21, 2009, until on or about November 29, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453-8048). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: June 10, 2009.

C. Miller Crouch,

Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E9-14124 Filed 6-15-09; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2009-0144]

Agency Information Collection Activities; Revision of Two Currently Approved Information Collection Requests: OMB Control Numbers 2126-0032 and 2126-0033 (Financial and Operating Statistics for Motor Carriers of Property)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces FMCSA's plan to submit to the Office of Management and Budget (OMB) its request to revise two currently-approved information collection requests (ICRs) as follows: (1) OMB Control Number 2126-0032 entitled, "*Annual Report of Class I and Class II Motor Carriers of Property (formerly OMB 2139-0004)*," and (2) OMB Control Number 2126-0033 entitled, "*Quarterly Report of Class I Motor Carriers of Property (formerly OMB 2139-0002)*." These ICRs are necessary to ensure that motor carriers comply with FMCSA's financial and operating statistics requirements at chapter III of title 49 CFR part 369 entitled, "*Reports of Motor Carriers.*"

On April 8, 2009, FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the ICR. No comments were received.

DATES: Please send your comments by July 16, 2009. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA-2009-0144. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to oir_submission@omb.eop.gov, or faxed to 202-395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Vivian Oliver, Office of Research and Information Technology, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. Telephone: 202-366-2974; e-mail Vivian.Oliver@dot.gov. Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Title: Annual Report of Class I and Class II Motor Carriers of Property (formerly OMB Control Number 2139-0004).

New OMB Control Number: 2126-0032.

Type of Request: Revision of a currently-approved information collection.

Respondents: Class I and Class II Motor Carriers of Property.

Estimated Number of Respondents: 372 (per year).

Estimated Time per Response: 9 hours.

Expiration Date: June 30, 2009.

Frequency of Response: Annually.

Estimated Total Annual Burden: 3,348 hours [372 respondents × 9 hours to complete form = 3,348].

Title: Quarterly Report of Class I Motor Carriers of Property (formerly OMB Control Number 2139-0002).

New OMB Control Number: 2126-0033.

Type of Request: Revision of a currently-approved information collection.

Respondents: Class I Motor Carriers of Property.

Estimated Number of Respondents: 120.

Estimated Time per Response: 1.8 hours (27 minutes per quarter).

Expiration Date: June 30, 2009.

Frequency of Response: Quarterly.

Estimated Total Annual Burden: 216 hours [120 respondents × 1.8 hours to complete forms = 216].

Background: The Annual Report of Class I and Class II Motor Carriers of Property (Form M) and the Quarterly Report of Class I Motor Carriers of Property (Form QFR) are reporting requirements for all for-hire motor carriers. See 49 U.S.C. § 14123, and implementing FMCSA regulations at 49 CFR part 369. The Secretary of Transportation (Secretary) has exercised his discretion under section 14123 to also require Class I property carriers (including dual-property carriers), Class I household goods carriers and Class I passenger carriers to file quarterly reports. Motor carriers (including interstate and intrastate) subject to the Federal Motor Carrier Safety Regulations are classified on the basis of their gross carrier operating revenues.¹

Under the F&OS program, FMCSA collects from Class I and Class II property carriers balance sheet and income statement data along with information on safety needs, tonnage, mileage, employees, transportation equipment, and other related data. FMCSA may also ask carriers to respond to surveys concerning their operations. The data and information collected would be made publicly available and used by FMCSA to determine a motor carrier's compliance with the F&OS program requirements prescribed at chapter III of title 49 CFR part 369.

The regulations were formerly administered by the Interstate Commerce Commission and later transferred to the Secretary on January 1, 1996, by section 103 of the ICC Termination Act of 1995 (Pub. L. 104-88, 109 Stat. 803 (Dec. 29, 1995)), now

¹ For purposes of the F&OS program, carriers are classified into the following three groups: (1) Class I carriers are those having annual carrier operating revenues (including interstate and intrastate) of \$10 million or more after applying the revenue deflator formula as set forth in Note A of 49 CFR 369.2; (2) Class II carriers are those having annual carrier operating revenues (including interstate and intrastate) of at least \$3 million, but less than \$10 million after applying the revenue deflator formula as set forth in 49 CFR 369.2; and (3) Class III carriers are those having annual carrier operating revenues (including interstate and intrastate) of less than \$3 million after applying the revenue deflator formula as set forth in Note A of 49 CFR § 369.2.

codified at 49 U.S.C. 14123. On September 30, 1998, the Secretary delegated and transferred the authority to administer the F&OS program to the former Bureau of Transportation Statistics (BTS), now part of the Research and Innovative Technology Administration (RITA), to former chapter XI, subchapter B of 49 CFR part 1420 (63 FR 52192).

On September 29, 2004, the Secretary transferred the responsibility for the F&OS program from BTS to FMCSA in the belief that the program was more aligned with FMCSA's mission and its other motor carrier responsibilities (69 FR 51009). On August 10, 2006, the Secretary published a final rule (71 FR 45740) that transferred and redesignated certain motor carrier financial and statistical reporting regulations of BTS, that were formerly located at chapter XI, subchapter B of title 49 CFR part 1420, to FMCSA under chapter III of title 49 CFR part 369.

On April 8, 2009, FMCSA published a **Federal Register** notice on this same topic and provided 60 days for public comment (74 FR 16037). The Agency received no comments to the docket in response to this notice.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued on: June 2, 2009

David G. Anewalt,

Acting Associate Administrator for Research and Information Technology.

[FR Doc. E9-14122 Filed 6-15-09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the

requirements of 49 CFR Part 236, as detailed below.

Docket Number: FRA-2009-0047

Applicant: CSX Transportation, Inc., Mr. C.M. King, Chief Engineer, Communications and Signals, 500 Water Street, SC J-350, Jacksonville, Florida 32202.

The CSX Transportation, Inc (CSXT) seeks approval of the proposed discontinuance of the manned tower "MK" at Rowlesburg, Milepost (MP) BA253.9; the conversion of power-operated switches #10 and #16 at Rowlesburg to DTMF controlled switches; the discontinuance of controlled signals #4 and #42 at Terra Alta, MP BA242.0; the installation of double track hold-out signals #2, #4, #6, #8 and the conversion of the power operated switch to a hand-operated throw electrically locked switch at Rinard, MP BA240.7; and the rearrangement of track configuration at Rowlesburg and McMillan, MP BA252.3. Signal Rule CPS-261 will be used between Rowlesburg and Rinard.

The location of the application is Rowlesburg, West Virginia, MP BA240.7 to BA253.9, on the Mountain Subdivision, Huntington Division.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2009-

0047) and may be submitted by any of the following methods:

- **Web site:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.
- **Hand Delivery:** 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Issued in Washington, DC on June 9, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9-14049 Filed 6-15-09; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2000-7257; Notice No. 53]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) meeting.

SUMMARY: FRA announces the thirty-ninth meeting of the RSAC, a Federal advisory committee that develops railroad safety regulations through a consensus process. The RSAC meeting

topics will include opening remarks from the FRA Administrator and presentations on the Rail Safety Improvement Act of 2008 (RSIA) Hazardous Materials Personal Protective Equipment Initiative, RSIA Highway-Rail Grade Crossings and Trespass Initiatives, and RSIA forthcoming rulemaking regarding maintenance-of-way employees. Status reports will be provided by the Passenger Safety, Track Safety Standards, and Medical Standards Working Groups. Status updates will be provided on the RSIA Positive Train Control Task, Hours of Service Task, and the Railroad Bridge Task. The Committee may also be asked to accept another RSIA-mandated task concerning critical incident programs. This agenda is subject to change, including the possible addition of further proposed tasks under the RSIA.

DATES: The meeting of the RSAC is scheduled to commence at 9:30 a.m. on Thursday, June 25, 2009, and will adjourn by 4:30 p.m.

ADDRESSES: The RSAC meeting will be held at the Marriott Washington, Wardman Park Hotel, 2660 Woodley Road, NW., Washington, DC 20008. The meeting is open to the public on a first-come, first-served basis, and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Larry Woolverton, RSAC Administrative Officer/Coordinator, FRA, 1200 New Jersey Avenue, SE., Mailstop 25, Washington, DC 20590, (202) 493-6212; or Grady Cothen, Deputy Associate Administrator for Safety, FRA, 1200 New Jersey Avenue, SE., Mailstop 25, Washington, DC 20590, (202) 493-6302.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), FRA is giving notice of a meeting of the RSAC. The RSAC was established to provide advice and recommendations to FRA on railroad safety matters. The

RSAC is composed of 54 voting representatives from 31 member organizations, representing various rail industry perspectives. In addition, there are non-voting advisory representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, the National Transportation Safety Board, and the Federal Transit Administration. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. See the RSAC Web site for details on pending tasks at: <http://rsac.fra.dot.gov/>. Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740), for additional information about the RSAC.

Issued in Washington, DC on June 10, 2009.

John Leeds,

Director, Office of Safety Analysis.

[FR Doc. E9-14123 Filed 6-15-09; 8:45 am]

BILLING CODE 4910-06-P

Reader Aids

Federal Register

Vol. 74, No. 114

Tuesday, June 16, 2009

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202-741-6000
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